

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="32"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2013"/> - * <input type="text" value="119"/>
		Amendment No. (req. for Amendments *) <input type="text"/>

Filing by NASDAQ Stock Market
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"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
Date Expires * <input type="text"/>			<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	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) <input type="checkbox"/>	Section 3C(b)(2) <input type="checkbox"/>
Section 806(e)(2) <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description

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

A Proposed Rule Change to Modify the Existing Fees to Receive CME Group Multi-Cast Market Data Feeds Via Wireless Connectivity.

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 * Last Name *

Title *

E-mail *

Telephone * Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date Executive Vice President and General Counsel

By

(Name *)

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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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

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 Advance Notice by Clearing Agencies

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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, security-based swap submission, or advance notice 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

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Exhibit Sent As Paper Document

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 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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 4 - Marked Copies

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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

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

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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) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to modify the existing fees clients in NASDAQ’s Carteret data center are assessed to receive CME Group multi-cast market data feeds via wireless connectivity. NASDAQ is not offering a new market data product.

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

(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 of NASDAQ on July 17, 2013. No other action by the Exchange is necessary for the filing of the rule change. Questions regarding this rule filing may be directed to Jeffrey S. Davis, Vice President, Office of General Counsel, NASDAQ OMX, at (301) 978-8484.

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

Background. In July of 2013, NASDAQ began utilize wireless technology to make available to its co-located clients third-party data from the CME Group, and to assess fees for the delivery of that third party market data to market center clients via a wireless network.³ Clients who choose this optional service use their existing NASDAQ cross connect handoffs (1G, 10G, or 40G) to receive the multicast market data for CME Group, and NASDAQ act as re-distributor of the third party market data feeds, capturing the data at CME Group's data centers and transporting the data to NASDAQ's Carteret data center. CME Group data is also available via fiber optic network, and therefore the wireless connectivity is simply another of many alternative methods of acquiring the CME data.

In July, NASDAQ began assessing clients a \$5,000 installation fee (a non-recurring charge) and a monthly recurring charge (MRC) of \$23,500 for connectivity. Clients place orders for the wireless connectivity to CME data via NASDAQ's CoLo Console.⁴ Subscribers to CME Group's data via a wireless network are currently required to subscribe for a minimum of one year, which is standard practice for co-location offerings. As an incentive to clients, NASDAQ agreed to waive the first month's MRC.

³ See Securities Exchange Act Release No. 69844; 78 F.R. 39383 (July 1, 2013) (SR-NASDAQ-2013-084).

⁴ The "CoLo Console" is a web-based ordering tool NASDAQ offers to enable members to place co-location orders.

Since July, the wireless network delivering CME data has performed well. NASDAQ OMX performed substantial network testing prior to offering the service for a fee to members. The wireless network will continue to be closely monitored and the client informed of any issues. As wireless networks may be affected by severe weather events, clients must have redundant methods to receive this market data and must attest to having alternate methods or establishing an alternate method in the near future when they order this service from the Exchange.

Current Proposal. NASDAQ is proposing three minor modifications to the CME data fees. First, in addition to offering a single MRC fee of \$23,000 for receiving all available CME data, NASDAQ will offer three subsets of data for subscribers seeking only a portion of the total available. Specifically, NASDAQ will offer Equities Futures Only data for an MRC of \$10,000, Fixed Income Futures Only for an MRC of \$10,000, and Metals Futures Only for an MRC of \$3,500. Clients choosing to receive all CME data will continue to pay an MRC of \$23,500 as they do today; clients choosing to receive less data will pay lower fees. The single \$5,000 installation fee will continue to apply regardless of the amount of data clients elect to receive.

Second, NASDAQ will eliminate the requirement that subscribers commit to a minimum 12-month subscription. Since July, NASDAQ has determined that clients prefer longer-term arrangements and, therefore, that a regulatory requirement is unnecessary. Just as NASDAQ and its vendor invest heavily to offer CME data, NASDAQ's clients make substantial investments to obtain the CME data and they require long-term usage to help recover that investment. NASDAQ will also release from the 12-month minimum all current clients that adopted the product beginning in July

subject to that requirement. This will allow all users to receive the CME data on the same terms.

Third, NASDAQ will eliminate the 30-day waiver period for MRC fees for CME data. The waiver period is unnecessary because the 12-month minimum subscription no longer applies. Clients are now able to connect for a short period of time, test the product, and then disconnect without penalty at any time if the product does not prove valuable to them.

Representations. The CME data feed delivery option will continue to be available to all clients of the data center, and is in response to industry demand, as well as to changes in the technology for distributing market data. Clients opting not to pay for the wireless connectivity will still be able to receive market data via fiber optics and standard telecommunications connections, as they do currently, and under the same fees. Receipt of trade data via wireless technology is completely optional. In addition, clients can choose to receive market data via other third-party vendors (Extranets or Telecommunication vendors) via fiber optic networks or wireless networks.

The proposed fees are based on the cost to NASDAQ and the vendor of installing and maintaining the wireless connectivity and on the value provided to the customer, which receives low latency delivery of data feeds. The costs associated with the wireless connectivity system are incrementally higher than fiber optics-based solutions due to the expense of the wireless equipment, cost of installation and testing and ongoing maintenance of the network. The fees also allow NASDAQ to make a profit, and reflect the premium received by the clients in terms of lower latency over the fiber optics option. Clients can choose to build and maintain their own wireless networks or choose their own

third party network vendors but the upfront and ongoing costs will be much more substantial than this Exchange wireless offering.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁵ in general, and with Sections 6(b)(4), (b)(5) and (b)(8) of the Act,⁶ 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 or system which the Exchange operates or controls, 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. NASDAQ's proposal to offer wireless connectivity supports important policy objectives of the Act, including the broadest, fairest possible dissemination of market data.

The Exchange believes that the proposed fees for wireless connectivity to NASDAQ are consistent with Section 6(b)(4) of the Act for multiple reasons. The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading activities of those members who believe that co-location enhances the efficiency of their trading. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of such members. If a particular exchange charges excessive fees for co-location services, affected members will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including co-locating with

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4), (5) and (8).

a different exchange, placing their servers in a physically proximate location outside the exchange's data center, or pursuing trading strategies not dependent upon co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also revenues associated with the execution of orders routed to it by affected members. Although currently no other exchange offers wireless connectivity, there are no constraints on their ability to do so, and it is probable that other exchanges will make a similar offering in the near future. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for co-location services, including fees for wireless connectivity.

A co-location customer may obtain a similar service by contracting with a wireless service provider to install the required dishes on towers near the data centers and paying the service provider to maintain the service. However, the cost involved in establishing service in this manner is substantial and could result in uneven access to wireless connectivity. The Exchange's proposed fees will allow these clients to utilize wireless connectivity and obtain the lower latency transmission of data from third parties and NASDAQ that is available to others, at a reasonable cost.⁷

⁷ The wireless network offered by the Exchange via the provider, although constrained by bandwidth with respect to the number of feeds it can carry, can be made available to an unlimited number of customers. The factors that differentiate this proposal from the Exchange's offerings of and initial fees for low latency network telecommunication connections approved by the Commission in Securities Exchange Act Release No. 66013 (December 20, 2011) 76 FR 80992 (December 27, 2011) (SR-NASDAQ-2011-146) are a function of technology and program concept, but neither approach implicates a burden on competition, for similar reasons: each offers, at a competitive price, a service that customers may obtain by dealing directly with the provider rather than the Exchange; and each is expected to result in a reduction in fees charged to market participants, the very essence of competition. Pursuant to the SEC's prior approval, the Exchange offers customers the opportunity to obtain low latency

Moreover, the Exchange believes the proposed fees for wireless connectivity to NASDAQ are reasonable because they are based on the Exchange's and vendor's costs to cover hardware, installation, testing and connection, as well expenses involved in maintaining and managing the enhanced connection. The proposed fees allow the Exchange to recoup these costs and make a profit, while providing customers the ability to reduce latency in the transmission of data from third parties and NASDAQ, and reducing the cost to them that would be involved if they build or buy their own wireless networks. The Exchange believes that the proposed fees are reasonable in that they reflect the costs of the connection and the benefit of the lower latency to clients.

The Exchange also believes that the proposed wireless connectivity fees are consistent with Section 6(b)(5) of the Act in that the fees are equitably allocated and non-discriminatory. All Exchange members that voluntarily select this service option will be charged the same amount for the same services. As is true of all co-location services, all

telecommunications connectivity by establishing a low-latency minimum standard and negotiating with multiple telecommunication providers to obtain discounted rates. It then passes these wholesale rates along to participating customers, with a markup to compensate for the Exchange's role in negotiating and establishing the arrangement, and integrating and maintaining each new connection. Co-located customers are free to choose the provider they wish to use from those participating in the program; or they may choose not to avail themselves of the service and obtain comparable services directly from the provider. The Exchange does not discriminate among telecommunications providers in its program, so long as they meet the required latency, destination, and fee standards. Wireless technology, in contrast, does not require separate avenues of connectivity for each customer, and thus the Exchange is not obtaining a wholesale price by negotiating with service providers. Rather, it is selecting, on a competitive basis, the service provider(s) to install and maintain the system, and charging customers for access to that particular system, offering lower prices because it is spreading the substantial cost among multiple clients. The program, far from burdening competition among connectivity service providers, promotes it. A wireless provider that can offer to the Exchange -- or to a competitor exchange -- a lower price for installation and maintenance will no doubt get the exchanges' business, with the end result that prices for the end users will go down.

co-located clients have the option to select this voluntary connectivity option, and there is no differentiation among customers with regard to the fees charged for the service.

Further, the latency reduction offered will be the same for all co-located clients, irrespective of the locations of their cabinets within the data center. The same cannot be said of the alternative where entities with substantial resources invest in private services and thereby obtain lower latency transmission, while those without resources are unable to invest in the necessary infrastructure.

The Exchange's proposal is also consistent with the requirement of Section 6(b)(5) of the Act that Exchange rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposal is consistent with these requirements inasmuch as it makes available to market participants, at a reasonable fee and on a non-discriminatory basis, access to low latency means of receiving market data feeds. Some market participants have already adopted wireless technology, using towers near the data centers, and others have approached the Exchange seeking to rent roof rights to mount their towers. Rather than lease out roof space to the highest bidders, a process that would stratify and limit access to the low latency delivery, this approach allows unlimited numbers of users to utilize the

this Exchange service which utilizes vendors who rely on nearby towers to house the wireless equipment to receive the market data. It will allow the same low latency delivery to those unable to invest in the more expensive option of building or acquiring their own wireless network, as it does for those whose pockets are deeper.⁸

NASDAQ performed substantial network testing prior to making the service available to members, the wireless network is closely monitored and maintained by the vendor, and the client will be informed of any issues. Similar to receiving market data over fiber optic networks, the wireless network can encounter delays or outages due to equipment issues. As wireless networks may be affected by severe weather events, clients will be expected to have redundant methods to receive this market data and will be asked to attest to having alternate methods or establishing an alternate method in the near future when they order this service from the Exchange.

Finally, for the reasons stated below in Section 4 of Form 19b-4, the proposed fees for wireless connectivity are consistent with Section 6(b)(8) of the Act in that they do not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, this proposal will promote competition for distribution of market data by offering an optional and innovative product enhancement.

⁸ NASDAQ also believes that it is reasonable and non-discriminatory to waive the 12-month minimum subscription requirement for both new and current subscribers. As stated above, this will permit all users to obtain the data on equal terms regardless of when they first purchased it.

Wireless technology has been in use for decades, is available from multiple providers, and may be adopted by other exchanges that decide to offer microwave connectivity for delivery of market data. As discussed above, the Exchange believes that fees for co-location services, including those proposed for microwave connectivity, are constrained by the robust competition for order flow among exchanges and non-exchange markets, because co-location exists to advance that competition. Further, excessive fees for co-location services, including for wireless technology, would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

Furthermore, there are multiple effective competitive alternatives to NASDAQ's wireless offering. NASDAQ has no arrangement with CME that limits the ability of CME to transmit CME data via alternative wireless providers. Additionally, NASDAQ does not limit the ability of alternative wireless providers to re-transmit data received from CME either outside of or within NASDAQ's co-location facility. A competitive network provides the same or similar data, at the same or similar speed, at the same or similar cost, and NASDAQ's proposal does nothing to inhibit or constrain this. Currently, 17 market data vendors have fiber optic cables connected to NASDAQ's telco room in Carteret, and NASDAQ believes at least ten wireless networks exist or are under construction within very close proximity to the Carteret facility.⁹ That number can, and likely will, grow, and nothing in the proposal inhibits additional wireless vendors accessing or providing CME data. Any or all of those vendors and networks is

⁹ This belief is based on a review conducted for NASDAQ of publicly-available registration and spectrum reservation databases at the Federal Communications Commission. While it is difficult to state a definitive number of active vendors, NASDAQ can state categorically that multiple vendors currently provide wireless services such as NASDAQ is proposing to provide via this proposed rule change.

an effective competitor to the NASDAQ wireless offering. A market data vendor could also induce purchasers away from NASDAQ with an ever-so-slightly slower but still valuable product at a lower price. This variety of price and speed attributes is an effective constraint on NASDAQ's pricing power.

Moreover, fiber optic networks are themselves effective competitors for wireless data. As stated above, 17 vendors currently offer connectivity to the NASDAQ data center at various, competing prices. Fiber optic networks are more resilient than wireless networks, which can be more susceptible to severe weather affects; this mature market for fiber optic networks will remain attractive to many clients who are more risk averse. While some NASDAQ firms will opt for faster, costlier wireless data, many others will conclude that the price and speed attributes of fiber optic data provide a reasonable competitive alternative to wireless data.

Competition between the Exchange and competing trading venues will be enhanced by allowing the Exchange to offer its market participants a lower latency connectivity option. Competition among market participants will also be supported by allowing small and large participants the same price for this lower latency connectivity.

The proposed rule change will likewise enhance competition among service providers offering connections between market participants and the data centers. The offering will expand the multiple means of connectivity available, allowing customers to compare the benefits and costs of lower latency transmission and related costs with reference to numerous variables. The Exchange, and presumably its competitors, selects service providers on a competitive basis in order to pass along price advantages to its customers to win and maintain their business. The offering is consistent with the

Exchange's own economic incentives to facilitate as many market participants as possible in connecting to its market.

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

NASDAQ does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.¹⁰

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,¹¹ BX 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.

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.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.
5. Text of proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASDAQ-2013-119)

September __, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Existing Fees to Receive CME Group Multi-Cast Market Data Feeds Via Wireless Connectivity

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 September 12, 2013, The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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

NASDAQ proposes to modify the existing fees clients in NASDAQ’s Carteret data center to receive CME Group multi-cast market data feeds via wireless connectivity. The text of the proposed rule change is available on the Exchange’s Website at <http://www.nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

Background. In July of 2013, NASDAQ began utilize wireless technology to make available to its co-located clients third-party data from the CME Group, and to assess fees for the delivery of that third party market data to market center clients via a wireless network.³ Clients who choose this optional service use their existing NASDAQ cross connect handoffs (1G, 10G, or 40G) to receive the multicast market data for CME Group, and NASDAQ act as re-distributor of the third party market data feeds, capturing the data at CME Group's data centers and transporting the data to NASDAQ's Carteret data center. CME Group data is also available via fiber optic network, and therefore the wireless connectivity is simply another of many alternative methods of acquiring the CME data.

In July, NASDAQ began assessing clients a \$5,000 installation fee (a non-recurring charge) and a monthly recurring charge (MRC) of \$23,500 for connectivity. Clients place orders for the wireless connectivity to CME data via NASDAQ's CoLo

³ See Securities Exchange Act Release No. 69844; 78 F.R. 39383 (July 1, 2013) (SR-NASDAQ-2013-084).

Console.⁴ Subscribers to CME Group's data via a wireless network are currently required to subscribe for a minimum of one year, which is standard practice for co-location offerings. As an incentive to clients, NASDAQ agreed to waive the first month's MRC.

Since July, the wireless network delivering CME data has performed well. NASDAQ OMX performed substantial network testing prior to offering the service for a fee to members. The wireless network will continue to be closely monitored and the client informed of any issues. As wireless networks may be affected by severe weather events, clients must have redundant methods to receive this market data and must attest to having alternate methods or establishing an alternate method in the near future when they order this service from the Exchange.

Current Proposal. NASDAQ is proposing three minor modifications to the CME data fees. First, in addition to offering a single MRC fee of \$23,000 for receiving all available CME data, NASDAQ will offer three subsets of data for subscribers seeking only a portion of the total available. Specifically, NASDAQ will offer Equities Futures Only data for an MRC of \$10,000, Fixed Income Futures Only for an MRC of \$10,000, and Metals Futures Only for an MRC of \$3,500. Clients choosing to receive all CME data will continue to pay an MRC of \$23,500 as they do today; clients choosing to receive less data will pay lower fees. The single \$5,000 installation fee will continue to apply regardless of the amount of data clients elect to receive.

Second, NASDAQ will eliminate the requirement that subscribers commit to a minimum 12-month subscription. Since July, NASDAQ has determined that clients

⁴ The "CoLo Console" is a web-based ordering tool NASDAQ offers to enable members to place co-location orders.

prefer longer-term arrangements and, therefore, that a regulatory requirement is unnecessary. Just as NASDAQ and its vendor invest heavily to offer CME data, NASDAQ's clients make substantial investments to obtain the CME data and they require long-term usage to help recover that investment. NASDAQ will also release from the 12-month minimum all current clients that adopted the product beginning in July subject to that requirement. This will allow all users to receive the CME data on the same terms.

Third, NASDAQ will eliminate the 30-day waiver period for MRC fees for CME data. The waiver period is unnecessary because the 12-month minimum subscription no longer applies. Clients are now able to connect for a short period of time, test the product, and then disconnect without penalty at any time if the product does not prove valuable to them.

Representations. The CME data feed delivery option will continue to be available to all clients of the data center, and is in response to industry demand, as well as to changes in the technology for distributing market data. Clients opting not to pay for the wireless connectivity will still be able to receive market data via fiber optics and standard telecommunications connections, as they do currently, and under the same fees. Receipt of trade data via wireless technology is completely optional. In addition, clients can choose to receive market data via other third-party vendors (Extranets or Telecommunication vendors) via fiber optic networks or wireless networks.

The proposed fees are based on the cost to NASDAQ and the vendor of installing and maintaining the wireless connectivity and on the value provided to the customer, which receives low latency delivery of data feeds. The costs associated with the wireless

connectivity system are incrementally higher than fiber optics-based solutions due to the expense of the wireless equipment, cost of installation and testing and ongoing maintenance of the network. The fees also allow NASDAQ to make a profit, and reflect the premium received by the clients in terms of lower latency over the fiber optics option. Clients can choose to build and maintain their own wireless networks or choose their own third party network vendors but the upfront and ongoing costs will be much more substantial than this Exchange wireless offering.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁵ in general, and with Sections 6(b)(4), (b)(5) and (b)(8) of the Act,⁶ 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 or system which the Exchange operates or controls, 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. NASDAQ's proposal to offer wireless connectivity supports important policy objectives of the Act, including the broadest, fairest possible dissemination of market data.

The Exchange believes that the proposed fees for wireless connectivity to NASDAQ are consistent with Section 6(b)(4) of the Act for multiple reasons. The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading activities of those members who believe that

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4), (5) and (8).

co-location enhances the efficiency of their trading. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of such members. If a particular exchange charges excessive fees for co-location services, affected members will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including co-locating with a different exchange, placing their servers in a physically proximate location outside the exchange's data center, or pursuing trading strategies not dependent upon co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also revenues associated with the execution of orders routed to it by affected members. Although currently no other exchange offers wireless connectivity, there are no constraints on their ability to do so, and it is probable that other exchanges will make a similar offering in the near future. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for co-location services, including fees for wireless connectivity.

A co-location customer may obtain a similar service by contracting with a wireless service provider to install the required dishes on towers near the data centers and paying the service provider to maintain the service. However, the cost involved in establishing service in this manner is substantial and could result in uneven access to wireless connectivity. The Exchange's proposed fees will allow these clients to utilize wireless connectivity and obtain the lower latency transmission of data from third parties and NASDAQ that is available to others, at a reasonable cost.⁷

⁷ The wireless network offered by the Exchange via the provider, although constrained by bandwidth with respect to the number of feeds it can carry, can be made available to an unlimited number of customers. The factors that

Moreover, the Exchange believes the proposed fees for wireless connectivity to NASDAQ are reasonable because they are based on the Exchange's and vendor's costs to cover hardware, installation, testing and connection, as well expenses involved in maintaining and managing the enhanced connection. The proposed fees allow the Exchange to recoup these costs and make a profit, while providing customers the ability to reduce latency in the transmission of data from third parties and NASDAQ, and reducing the cost to them that would be involved if they build or buy their own wireless

differentiate this proposal from the Exchange's offerings of and initial fees for low latency network telecommunication connections approved by the Commission in Securities Exchange Act Release No. 66013 (December 20, 2011) 76 FR 80992 (December 27, 2011) (SR-NASDAQ-2011-146) are a function of technology and program concept, but neither approach implicates a burden on competition, for similar reasons: each offers, at a competitive price, a service that customers may obtain by dealing directly with the provider rather than the Exchange; and each is expected to result in a reduction in fees charged to market participants, the very essence of competition. Pursuant to the SEC's prior approval, the Exchange offers customers the opportunity to obtain low latency telecommunications connectivity by establishing a low-latency minimum standard and negotiating with multiple telecommunication providers to obtain discounted rates. It then passes these wholesale rates along to participating customers, with a markup to compensate for the Exchange's role in negotiating and establishing the arrangement, and integrating and maintaining each new connection. Co-located customers are free to choose the provider they wish to use from those participating in the program; or they may choose not to avail themselves of the service and obtain comparable services directly from the provider. The Exchange does not discriminate among telecommunications providers in its program, so long as they meet the required latency, destination, and fee standards. Wireless technology, in contrast, does not require separate avenues of connectivity for each customer, and thus the Exchange is not obtaining a wholesale price by negotiating with service providers. Rather, it is selecting, on a competitive basis, the service provider(s) to install and maintain the system, and charging customers for access to that particular system, offering lower prices because it is spreading the substantial cost among multiple clients. The program, far from burdening competition among connectivity service providers, promotes it. A wireless provider that can offer to the Exchange -- or to a competitor exchange -- a lower price for installation and maintenance will no doubt get the exchanges' business, with the end result that prices for the end users will go down.

networks. The Exchange believes that the proposed fees are reasonable in that they reflect the costs of the connection and the benefit of the lower latency to clients.

The Exchange also believes that the proposed wireless connectivity fees are consistent with Section 6(b)(5) of the Act in that the fees are equitably allocated and non-discriminatory. All Exchange members that voluntarily select this service option will be charged the same amount for the same services. As is true of all co-location services, all co-located clients have the option to select this voluntary connectivity option, and there is no differentiation among customers with regard to the fees charged for the service. Further, the latency reduction offered will be the same for all co-located clients, irrespective of the locations of their cabinets within the data center. The same cannot be said of the alternative where entities with substantial resources invest in private services and thereby obtain lower latency transmission, while those without resources are unable to invest in the necessary infrastructure.

The Exchange's proposal is also consistent with the requirement of Section 6(b)(5) of the Act that Exchange rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposal is consistent with these requirements inasmuch as it makes available to market participants, at a reasonable fee and on a non-discriminatory basis, access to low latency means of receiving market data feeds. Some market participants have already adopted wireless technology, using towers near the data centers, and others have approached the Exchange seeking to rent roof rights to mount their towers. Rather than lease out roof space to the highest bidders, a process that would stratify and limit access to the low latency delivery, this approach allows unlimited numbers of users to utilize the this Exchange service which utilizes vendors who rely on nearby towers to house the wireless equipment to receive the market data. It will allow the same low latency delivery to those unable to invest in the more expensive option of building or acquiring their own wireless network, as it does for those whose pockets are deeper.⁸

NASDAQ performed substantial network testing prior to making the service available to members, the wireless network is closely monitored and maintained by the vendor, and the client will be informed of any issues. Similar to receiving market data over fiber optic networks, the wireless network can encounter delays or outages due to equipment issues. As wireless networks may be affected by severe weather events, clients will be expected to have redundant methods to receive this market data and will be asked to attest to having alternate methods or establishing an alternate method in the near future when they order this service from the Exchange.

Finally, for the reasons stated below in Section 4 of Form 19b-4, the proposed fees for wireless connectivity are consistent with Section 6(b)(8) of the Act in that they

⁸ NASDAQ also believes that it is reasonable and non-discriminatory to waive the 12-month minimum subscription requirement for both new and current subscribers. As stated above, this will permit all users to obtain the data on equal terms regardless of when they first purchased it.

do not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, this proposal will promote competition for distribution of market data by offering an optional and innovative product enhancement. Wireless technology has been in use for decades, is available from multiple providers, and may be adopted by other exchanges that decide to offer microwave connectivity for delivery of market data. As discussed above, the Exchange believes that fees for co-location services, including those proposed for microwave connectivity, are constrained by the robust competition for order flow among exchanges and non-exchange markets, because co-location exists to advance that competition. Further, excessive fees for co-location services, including for wireless technology, would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

Furthermore, there are multiple effective competitive alternatives to NASDAQ's wireless offering. NASDAQ has no arrangement with CME that limits the ability of CME to transmit CME data via alternative wireless providers. Additionally, NASDAQ does not limit the ability of alternative wireless providers to re-transmit data received from CME either outside of or within NASDAQ's co-location facility. A competitive network provides the same or similar data, at the same or similar speed, at the same or similar cost, and NASDAQ's proposal does nothing to inhibit or constrain this. Currently, 17 market data vendors have fiber optic cables connected to NASDAQ's

telco room in Carteret, and NASDAQ believes at least ten wireless networks exist or are under construction within very close proximity to the Carteret facility.⁹ That number can, and likely will, grow, and nothing in the proposal inhibits additional wireless vendors accessing or providing CME data. Any or all of those vendors and networks is an effective competitor to the NASDAQ wireless offering. A market data vendor could also induce purchasers away from NASDAQ with an ever-so-slightly slower but still valuable product at a lower price. This variety of price and speed attributes is an effective constraint on NASDAQ's pricing power.

Moreover, fiber optic networks are themselves effective competitors for wireless data. As stated above, 17 vendors currently offer connectivity to the NASDAQ data center at various, competing prices. Fiber optic networks are more resilient than wireless networks, which can be more susceptible to severe weather affects; this mature market for fiber optic networks will remain attractive to many clients who are more risk averse. While some NASDAQ firms will opt for faster, costlier wireless data, many others will conclude that the price and speed attributes of fiber optic data provide a reasonable competitive alternative to wireless data.

Competition between the Exchange and competing trading venues will be enhanced by allowing the Exchange to offer its market participants a lower latency connectivity option. Competition among market participants will also be supported by allowing small and large participants the same price for this lower latency connectivity.

⁹ This belief is based on a review conducted for NASDAQ of publicly-available registration and spectrum reservation databases at the Federal Communications Commission. While it is difficult to state a definitive number of active vendors, NASDAQ can state categorically that multiple vendors currently provide wireless services such as NASDAQ is proposing to provide via this proposed rule change.

The proposed rule change will likewise enhance competition among service providers offering connections between market participants and the data centers. The offering will expand the multiple means of connectivity available, allowing customers to compare the benefits and costs of lower latency transmission and related costs with reference to numerous variables. The Exchange, and presumably its competitors, selects service providers on a competitive basis in order to pass along price advantages to its customers to win and maintain their business. The offering is consistent with the Exchange's own economic incentives to facilitate as many market participants as possible in connecting to its market.

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

Written comments were neither solicited nor received.

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

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act,¹⁰ and paragraph (f)¹¹ of Rule 19b-4, thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f).

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-NASDAQ-2013-119 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2013-119. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-NASDAQ-2013-119, 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.¹²

Kevin M. O'Neill
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

* * * * *

Rule 7034 Co-Location Services

The following charges are assessed by NASDAQ for co-location services: ¹

(a) No Change.

(b) Connectivity

External Telco /Inter-Cabinet Connectivity		
Description	Installation Fee	Ongoing Monthly Fee
Category 6 Cable patch	\$300	\$300*
DS-3 Connection	\$500	\$300*
Fiber	\$500	\$300*
POTS Line	\$0	\$0
One-Time Telco Connectivity Expedite Fee	\$1,400	\$0
Inter-Cabinet Telco connection outside Nasdaq space		\$1,000
100MB Connectivity - Metro NY/NJ Area Destination	\$1,165**	\$1,650**
1G Connectivity - Metro NY/NJ Area Destination	\$2,150**	\$2,150**
10G Connectivity - Metro NY/NJ Area Destination	\$5,000**	\$5,000**
100MB Connectivity - Toronto Area Destination	\$4,850**	\$4,100**
1G Connectivity - Toronto Area Destination	\$7,700**	\$9,850**
10G Connectivity - Toronto Area Destination	\$14,200**	\$28,400**
100MB Connectivity - Chicago Area Destination	\$3,500**	\$7,350**
1G Connectivity - Chicago Area Destination	\$4,900**	\$12,800**

10G Connectivity - Chicago Area Destination	\$10,650**	\$26,900**
* Requesting party only. Not applicable to inter-cabinet connections among the same customer.		
** Includes fiber telco cross connect within NASDAQ OMX data center.		
Connectivity to Nasdaq*		
Description	Installation Fee	Ongoing Monthly Fee
Fiber Connection to Nasdaq (10Gb)	\$1,000	\$5000
Fiber Connection to Nasdaq (10Gb Ultra)	\$1,500**	\$15,000
Fiber Connection to Nasdaq (40Gb)	\$1,500	\$15,000
Fiber Connection to Nasdaq (1Gb)	\$1,000	\$1,000
1Gb Copper Connection to Nasdaq	\$1,000	\$1,000
* The connectivity provided under this rule also provides connectivity to the other markets of NASDAQ OMX BX, Inc. and NASDAQ OMX PHLX LLC.		
**The installation fee will be waived for customers that complete new orders for 10Gb Ultra connection to Nasdaq prior to August 31, 2013.		
Market Data Connectivity*		
The following Market Data feeds are delivered to the NASDAQ OMX Data Center via a fiber optic network:		
Description	Installation Fee	Ongoing Monthly Fee
Nasdaq	\$1,000	\$0
SIAC	\$1,000	
CTS/CQS		\$1,412
OpenBook Realtime		\$2,500
OpenBook Ultra		\$2,500
NYSE Alerts		\$200
NYSE Trades		\$100
Arca Trades		\$100
ArcaBook Multicast		\$1,500
Arca BBO		\$125
AMEX- Ultra/Trades/Alerts/LRP		\$100
OPRA		\$6,000
CME	\$1,000	\$3,500
Access Fee per location device/user		\$65
BATS Multicast PITCH	\$1,000	
BATS		\$4,000

BATS Y		\$1,500
Direct Edge	\$1,000	
EDGA		\$2,500
EDGX		\$2,500
TSX/TSXV	\$1,000	
	TSX and TSXV Level 1 Feed	\$300
	TSX and TSXV Level 2 Feed	\$1,000
	TSX Quantum Level 1 Feed	\$100
	TSX Quantum Level 2 Feed	\$300

*Pricing is for connectivity only and is similar to connectivity fees imposed by other vendors. The fees are generally based on the amount of bandwidth needed to accommodate a particular feed and Nasdaq is not the exclusive method to get market data connectivity. Market data fees are charged independently by the Nasdaq Stock Market and other exchanges.

The following multicast Market Data feeds are delivered to the NASDAQ OMX Data Center via a wireless network (microwave or millimeter wave)[. These fees are subject to a 30-day testing period during which otherwise applicable fees are waived, and a one-year minimum purchase period]:

Description	Installation Fee	Recurring Monthly Fee
NYSE Equities (Open Book Ultra or Aggregated and ArcaBook High Speed)	\$2,500	\$10,000
BATS Multicast PITCH (BZY and BYX)	\$2,500	\$7,500
Direct EDGE Depth of Book (EDGA, EDGX)	\$2,500	\$7,500
CME Multicast <u>Total</u>	\$5,000	\$23,500
<u>CME Equities Futures Data Only</u>		\$10,000
<u>CME Fixed Income Futures Data Only</u>		\$10,000
<u>CME Metals Futures Data Only</u>		\$3,500

(c) No Change.

(d) No Change.