

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83670; File No. SR-NASDAQ-2018-056]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7015(b) To Provide for Port Connectivity the FINRA/Nasdaq Trade Reporting Facility Chicago

July 19, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 6, 2018, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 the Exchange’s transaction fees at Rule 7015(b) to provide for port connectivity [sic] the FINRA/Nasdaq Trade Reporting Facility Chicago, as described further below. The text of the proposed rule change is available on the Exchange’s website at <http://nasdaq.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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

The Exchange proposes to amend Rules 7015(b) to establish fees for Financial Information Exchange or “FIX” Port connectivity to the FINRA/Nasdaq Trade Reporting Facility Chicago (“FINRA/Nasdaq TRF Chicago”). The FINRA/Nasdaq TRF Chicago is a second iteration of the FINRA/Nasdaq Trade Reporting Facility (now known as the FINRA/Nasdaq Trade Reporting Facility Carteret or “FINRA/Nasdaq TRF Carteret”) that the Commission approved on June 29, 2018.<sup>3</sup> The FINRA/Nasdaq TRF Chicago is expected to launch in September 2018.

The proposal will amend Rule 7015(b), which presently charges a \$500 per port per month fee for FIX Ports to connect to the “FINRA/Nasdaq Trade Reporting Facility, ORF, and TRACE.” The proposal will amend this provision of the Rule to: (i) Refer to the FINRA/Nasdaq Trade Facility by its new name, the “FINRA/Nasdaq TRF Carteret”; (ii) apply a \$500 per port per month fee to FIX Ports to connect to the FINRA/Nasdaq TRF Chicago; and (3) waive this fee for FIX Port connections to the FINRA/Nasdaq TRF Chicago until November 1, 2018 so as to encourage firms to test connectivity to the new facility and also to provide them with a transition period to adjust to the new fees. As of November 1, 2018, the same fee that the Exchange charges for FIX Ports to connect to the FINRA/Nasdaq TRF Carteret will apply to FIX Port connections to the FINRA/Nasdaq TRF Chicago.<sup>4</sup>

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>6</sup> 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

<sup>3</sup> See Securities Exchange Act Release No. 83559 (June 29, 2018), 83 FR 31589 (July 6, 2018) (SR-FINRA-2018-013).

<sup>4</sup> For avoidance of doubt, the Exchange notes that a firm that pays a fee for a FIX Port to connect to the FINRA/Nasdaq TRF Carteret will also be liable for an additional fee to connect to the FINRA/Nasdaq TRF Chicago.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the Exchange’s proposal to charge a fee for FIX Ports that connect to the FINRA/Nasdaq TRF Chicago is reasonable because the proposed fee accounts for the costs to the Exchange of developing and maintaining connectivity to the FINRA/Nasdaq TRF Chicago. The proposed fee is also reasonable because it mirrors a fee that the Exchange already charges for connections to the FINRA/Nasdaq TRF Carteret, which is the sister facility to the FINRA/Nasdaq TRF Chicago and to which the Chicago facility will be identical in all material respects.

The Exchange also believes that it is reasonable to waive the aforementioned fee for a brief transition period to allow participants to test and configure their connections to the FINRA/Nasdaq TRF Chicago and also to facilitate an adjustment to the new fees.

The Exchange believes that the proposal is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same fee—and the same fee waiver—to all similarly situated members that choose to connect to the FINRA/Nasdaq TRF Chicago. It is also equitable to temporarily waive fees for connecting to the new facility because doing so will ease the burden of testing and configuring the connections.

#### 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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

In this instance, the proposed changes do not impose a burden on competition because the proposed fee for connectivity to the FINRA/Nasdaq TRF Chicago will be the same as that which the Exchange presently charges to connect to the Chicago facility's sister facility, the FINRA/Nasdaq TRF Carteret. Moreover, use of and connection to the FINRA/Nasdaq TRF Chicago is voluntary. If a firm does not wish to pay fees to connect to the FINRA/Nasdaq TRF Chicago, it may choose instead to connect to a competing trade reporting facility that charges lower fees.

Lastly, the proposed fee waiver does not burden competition because it will apply only for a brief transition period. Such transitional fee waivers are a commonly accepted means of facilitating the adoption, testing, and use of new functionalities and the attraction of new participants.<sup>7</sup>

*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.<sup>8</sup>

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.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2018-056 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-NASDAQ-2018-056. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2018-056, and should be submitted on or before August 15, 2018.

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

**Eduardo A. Aleman,**  
*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**Submission for OMB Review; Comment Request**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

*Extension:*

Form 1-E, Regulation E, SEC File No. 270-221, OMB Control No. 3235-0232

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form 1-E (17 CFR 239.200) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act") is the form that a small business investment company ("SBIC") or business development company ("BDC") uses to notify the Commission that it is claiming an exemption under Regulation E from registering its securities under the Securities Act. Rule 605 of Regulation E (17 CFR 230.605) under the Securities Act requires an SBIC or BDC claiming such an exemption to file an offering circular with the Commission that must also be provided to persons to whom an offer is made. Form 1-E requires an issuer to provide the names and addresses of the issuer, its affiliates, directors, officers, and counsel; a description of events which would make the exemption unavailable; the jurisdictions in which the issuer intends to offer the securities; information about unregistered securities issued or sold by the issuer within one year before filing the notification on Form 1-E; information as to whether the issuer is presently offering or contemplating offering any other securities; and exhibits, including copies of the rule 605 offering circular and any underwriting contracts.

The Commission uses the information provided in the notification on Form 1-E and the offering circular to determine whether an offering qualifies for the exemption under Regulation E. The Commission estimates that, each year, one issuer files one notification on Form 1-E, together with offering circulars, with the Commission.<sup>1</sup> Based on the

<sup>7</sup> See, e.g., Securities Exchange Act Release No. 81095 (July 7, 2017), 82 FR 32409 (July 13, 2017) (SR-ISE-2017-62) (temporarily waiving port fees for connections to the re-platformed Nasdaq ISE Exchange).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> According to Commission records, one issuer filed two notifications on Form 1-E, together with offering circulars, during 2013 and 2014.