

also enhance various aspects of the related risk analysis and related calculations. Overall, these amendments strengthen ICE Clear Europe's margin system and compliance with Rules 17Ad-22(e)(6)(i) to (iii).<sup>16</sup>

*(B) Clearing Agency's Statement on Burden on Competition*

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The amendments to the Documents and the new Procedures apply to all CDS Contracts. In general, the amendments are intended to clarify the description of the CDS risk model, and not substantially change the practices of the Clearing House with respect to the calculation of CDS margin and GF requirements. As such, the amendments will apply to all CDS Clearing Members and are unlikely, in ICE Clear Europe's view, to materially affect the cost of clearing for CDS products or affect access to clearing for CDS products at ICE Clear Europe or the market for cleared services generally. Certain amendments to the CDS Stress Testing Framework would add new stress-testing scenarios in light of recent events, including COVID-19 related scenarios. To the extent such amendments may have any impact on margin levels, ICE Clear Europe believes such changes will be appropriate in furtherance of the risk management of the Clearing House in light of the market movements observed during the pandemic. Therefore, ICE Clear Europe does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule changes have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe with respect to the proposed rule changes.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period

to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the proposed rule change or
- (B) institute proceedings to determine whether the proposed rule change should be 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-ICEEU-2021-006 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-ICEEU-2021-006. 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 such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/clear-europe/regulation>. 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-ICEEU-2021-006 and should be submitted on or before March 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2021-04678 Filed 3-5-21; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-91241; File No. SR-NASDAQ-2021-010]

**Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Enhance the End of Day Summary Message on Nasdaq Last Sale Plus**

March 2, 2021.

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 February 17, 2021, 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 and II 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 enhance the End of Day ("EOD") summary message on Nasdaq Last Sale ("NLS") Plus by replacing the current high, low and closing price of a security based on its trading on the Nasdaq, Nasdaq BX and Nasdaq PSX exchanges with the high, low and closing price of a security published by the securities information processors ("SIPs"), and adding the opening price of a security as published by the SIPs to that message.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

<sup>16</sup> 17 CFR 240.17Ad-22(e)(6)(i) to (iii).

## 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 enhance the EOD summary message on NLS Plus by replacing the current high, low and closing price of a security based on its trading on the Nasdaq, Nasdaq BX and Nasdaq PSX exchanges with the consolidated high, low and closing price as published by the SIPs, and adding the opening price of a security published by the SIPs to that message.<sup>3</sup>

This Proposal is in response to requests by firms using NLS Plus for a broader benchmark against which to compare trades on the Nasdaq exchanges. Specifically, approximately 30 firms have requested that Nasdaq distribute benchmark prices on NLS Plus to provide retail investors and the general investing public with a static benchmark against which to compare the price movements shown on NLS Plus using standard high, low, opening and closing prices for U.S. markets as a whole. In response to that feedback, and also partly in response to recent changes by competitor exchanges to their end of day messages,<sup>4</sup> Nasdaq proposes to enhance its EOD message for NLS Plus—which currently provides the high, low and closing price of a security based on its trading on Nasdaq affiliates—with a new EOD message that provides the high, low and closing price

<sup>3</sup> The securities information processors issue consolidated trade information pursuant to the UTP Plan and the CTA/CQ Plan.

<sup>4</sup> See Securities Exchange Act Release No. 89083 (June 17, 2020), 85 FR 37706 (June 23, 2020) (SR–CboeEDGX–2020–029) (amending the content of the Cboe One Feed to identify the primary listing market's official opening and closing price); NYSE Best Quote and Trades Client Specification (March 30, 2020) (updated on January 31, 2020, to publish the listing market official opening and closing price in the Consolidated Stock Summary Messages) available at [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_BQT\\_Client\\_Specification\\_v2.3a.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_BQT_Client_Specification_v2.3a.pdf).

published by the SIPs, and add a new field with the opening price of a security as published by the SIPs.<sup>5</sup>

The Exchange proposes that this change become operative on April 12, 2021, to allow time to conduct customer testing in advance of the date of launch.

To ensure consistency across Nasdaq platforms, the Nasdaq BX and Nasdaq PSX exchanges will be filing companion proposals to reflect these changes in their respective rulebooks.

#### Nasdaq Last Sale Plus

NLS Plus is a comprehensive data feed that offers retail investors, the general investing public, and other customers access to the last sale products offered by Nasdaq,<sup>6</sup> Nasdaq BX and Nasdaq PSX, and the consolidated volume information published on the SIPs for Tapes A, B, and C, in a convenient format that includes both real-time and end of day information.<sup>7</sup> It is, in essence, a market data vendor product that consolidates information from multiple Nasdaq exchanges and the SIPs. This product directly competes against similar products offered by other exchanges, and faces potential competition from data vendors, which can obtain and distribute SIP data on the same terms as Nasdaq.<sup>8</sup>

<sup>5</sup> The Proposal also clarifies the description of the information provided in NLS Plus. It removes an unnecessary sentence at the end of the description of NLS Plus stating that volume information reflects trading activity in Tape A and B Securities, and replaces it with an earlier reference to Tape A and B securities that provides the same information. It also separates the description of the end of day trade summary into two sentences for greater clarity: the first sentence lists the data provided by the Nasdaq equity exchanges, and the second sentence identifies the consolidated information obtained from Tapes A, B and C. The phrases “as well as consolidated volume of,” and “Cumulative Consolidated Market Volume” are deleted to remove repetitive language that might cause confusion.

<sup>6</sup> Nasdaq Last Sale is comprised of two proprietary data feeds containing real-time last sale information for trades executed on Nasdaq or reported to the FINRA/Nasdaq Trade Reporting Facility. “Nasdaq Last Sale for Nasdaq” contains all such transaction reports for Nasdaq-listed stocks, and “Nasdaq Last Sale for NYSE/NYSE American” contains all such transaction reports for NYSE-listed stocks and stocks listed on NYSE American and other Tape B listing venues. See Equity 7, Section 139(a).

<sup>7</sup> The full list of NLS components is as follows: Trade Price, Trade Size, Sale Condition Modifiers, Cumulative Consolidated Market Volume for Tape A, B, and C securities, End of Day Trade Summary, Adjusted Closing Price, IPO Information, Bloomberg ID, and pertinent regulatory information (such as Market Wide Circuit Breaker, Reg SHO Short Sale Price Test Restricted Indicator, Trading Action, and Symbol Directory). See Equity 7, Section 139(e).

<sup>8</sup> See Securities Exchange Act Release No. 74972 (May 15, 2015), 80 FR 29370 (May 21, 2015) (SR–Nasdaq–2015–055) (explaining that, in distributing NLS Plus, the role of Nasdaq “is analogous to that of other market data vendors . . . [and] performs precisely the same functions as Bloomberg,

At the close of each trading day, Nasdaq disseminates an EOD summary message on NLS Plus that includes the following information for all active Nasdaq- and non-Nasdaq-listed securities:

- *Nasdaq Price High*: The highest price reported for a last sale transaction on any Nasdaq venue for the issue symbol during the current trading day.
- *Nasdaq Price Low*: The lowest price reported for a last sale transaction on any Nasdaq venue for the issue symbol during the current trading day.
- *Nasdaq Price Closing*: For Nasdaq-listed securities, this is the Nasdaq Official Closing Price value, if available. For non-Nasdaq-listed securities, it is the final last sale eligible transaction reported by any Nasdaq venue for the issue during normal market hours.
- *Consolidated Volume*: Reflects the total volume for the issue reported at the consolidated market level.<sup>9</sup>

#### Proposal

The Exchange proposes to enhance the current EOD summary message by providing the open, high, low, close and volume of a security based on the consolidated data provided by the UTP and CTA/CQ plans for Tape A, B<sup>10</sup> and C<sup>11</sup> securities. This will require replacing the current high, low, and close on the Nasdaq exchanges with the following three fields:

- *Consolidated Price High*: The highest price of any high/low eligible transaction on Tapes A, B or C received on the trading day.
- *Consolidated Price Low*: The lowest price of any high/low eligible transaction on Tapes A, B or C received on the trading day.
- *Consolidated Price Close*: The final last sale eligible transaction on Tapes A, B or C received on the trading day.<sup>12</sup>

It will also require adding the following new field to the EOD summary message:

- *Consolidated Price Open*: The first last sale eligible transactions received on the trading day for Tapes A, B or C.

Thomson Reuters, and dozens of other market data vendors.”)

<sup>9</sup> See NLS Plus Version 3.0 Technical Specifications, Section 5.8.5 (End of Day Trading Summary) at 29, available at <http://www.nasdaqtrader.com/content/technicalsupport/specifications/dataproducts/NLSPlusSpecification3.0.pdf>.

<sup>10</sup> Tape A and Tape B securities are disseminated pursuant to the Security Industry Automation Corporation's (SIAC's) Consolidated Tape Association Plan/Consolidated Quotation System (“CTA/CQS” or “CTA”).

<sup>11</sup> Tape C securities are disseminated pursuant to the NASDAQ Unlisted Trading Privileges (“UTP”) Plan.

<sup>12</sup> If there are no trades or no qualifying trades for a specific issue, all relevant fields for the EOD summary message will be left blank.

The Consolidated Volume field will not change.

The above data will be available to users of the NLS Plus feed on a delayed basis, 15 minutes after the real-time dissemination of the above data points on the UTP and CTA/CQ data feeds for that day. The Exchange is not proposing any change to NLS Plus fees as a result of this modification.

#### Discussion

The NLS Plus data feed, designed for distribution to the general investing public,<sup>13</sup> is purchased by broker-dealers for dissemination to retail investors in the context of the brokerage relationship and financial media websites for the general investing public, among others. Approximately 30 firms that purchase or may purchase NLS Plus have requested that Nasdaq upgrade the EOD summary information to help investors place trades on the Nasdaq exchanges in the context of U.S. markets as a whole, rather than just the Nasdaq exchanges. Specifically, these firms requested that Nasdaq use benchmark prices for the high, low, opening and closing price of a security as published by the securities information processors to help investors understand price movements on the Nasdaq exchanges.

This suggestion by Nasdaq's customers is comparable to changes in the end of day messages undertaken recently by two of Nasdaq's chief competitors, Cboe and NYSE, in their top-of-book data feeds. In 2020, both amended their end of day messages to identify the primary listing market's official opening and closing price after a 15-minute delay, which, similar to the proposal by Nasdaq's customers, establish an external benchmark against which to evaluate exchange data.<sup>14</sup>

<sup>13</sup> See Securities Exchange Act Release No. 82723 (February 15, 2018), 83 FR 7812 (February 22, 2018) (SR-NASDAQ-2018-010) (quoting SR-NASDAQ-2006-060 (Amendment No. 2, June 10, 2008), at 3 (explaining that NLS was designed to enable market-data "distributors to provide free access to the data to millions of individual investors via the internet and television" and was expected to "increase the availability of NASDAQ proprietary market data to individual investors."); see also SR-NASDAQ-2006-060 (Amendment No. 2, June 10, 2008) (available at [http://nasdaq.cchwallstreet.com/NASDAQ/pdf/nasdaq-filings/2006/SR-NASDAQ-2006-060\\_Amendment\\_2.pdf](http://nasdaq.cchwallstreet.com/NASDAQ/pdf/nasdaq-filings/2006/SR-NASDAQ-2006-060_Amendment_2.pdf)); Securities Exchange Act Release No. 57965 (June 16, 2008), 73 FR 35178 (June 20, 2008) (SR-NASDAQ-2006-060) (approving SR-NASDAQ-2006-060, as amended by Amendment Nos. 1 and 2, to implement NLS on a pilot basis). NLS Plus is a combination of NLS feeds from the Nasdaq equity exchanges. Like these underlying feeds, it is mainly designed for the use of the general investing public.

<sup>14</sup> See Securities Exchange Act Release No. 89083 (June 17, 2020), 85 FR 37706 (June 23, 2020) (SR-CboeEDGX-2020-029) (amending the content of the Cboe One Feed to identify the primary listing market's official opening and closing price after a

In light of customer requests and changing industry standards, Nasdaq has determined that the requested change to the EOD summary message is in the best interest of our customers. The end of day data published by the securities information processors provides useful information on the state of the U.S. market as a whole, and including it on the NLS Plus feed will enhance investor understanding of the proprietary data distributed by the exchange.<sup>15</sup> The proposal will also provide consumers with greater choice by offering an alternative to other EOD summaries offered in the market. Nasdaq therefore proposes to modify its EOD summary message to provide the Open, High, Low, Close and Volume of a security based on the consolidated data provided by the SIPs. This EOD message will be based on data obtained from the securities information processors, and will be distributed by Nasdaq as a vendor of SIP data, and will be subject to competition from all distributors of SIP data.

The proposed change to the EOD summary message is not targeted at, or expected to be limited in its applicability to, any particular segment of market participants, and no segment of retail investors, the general investing public, or other any other market participant is expected to benefit more than any other.<sup>16</sup>

The Exchange expects that the new EOD message will be attractive to potential customers, and, based on conversations with potential customers and our overall familiarity with the market, Nasdaq expects between approximately 10 and 20 additional

15 minute delay, effective July 10, 2020); NYSE Best Quote and Trades Client Specification, Version 2.3a (March 30, 2020) available at [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_BQT\\_Client\\_Specification\\_v2.3a.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_BQT_Client_Specification_v2.3a.pdf) (updated on January 31, 2020, to publish the listing market official opening and closing price in the Consolidated Stock Summary Messages).

<sup>15</sup> Any customer that requires access to the high, low, and closing price of a security on the Nasdaq equity exchanges alone, and not the U.S. markets as a whole, would continue to have access to that information on the real-time NLS Plus data feed.

<sup>16</sup> Although this is not a fee filing, the Exchange is addressing this question to provide as complete as possible an evaluation of the proposed change. See Division of Trading and Markets, U.S. Securities and Exchange Commission, "Staff Guidance on SRO Filings Related to Fees" (May 21, 2019) ("Staff Guidance"), available at <https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees> (indicating that the discussion of purpose should indicate "whether the relevant product or service, including the corresponding proposed fee or fee change, is targeted at—or expected to be limited in its applicability to—a specific segment(s) of market participants (and if so, the related details)").

customers for NLS Plus as a result of the proposed change.<sup>17</sup>

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>18</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>19</sup> in particular, in that it 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In 2015, the Commission found the creation of the NLS Plus data feed to be "consistent with section 6(b)(5) of the Act, which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest . . . ." <sup>20</sup> The NLS Plus Approval Order noted that NLS Plus disseminated an End of Day Trade Summary among other messages,<sup>21</sup> and consolidated volume information obtained from the UTP and CTA Plans.<sup>22</sup> As NLS Plus and the current

<sup>17</sup> See *id.* (requesting that the discussion of purpose address "the projected number of purchasers (including members, as well as non-members) of any new or modified product or service and the expected number of purchasers likely to be subject to a new fee or pricing tier, including members and non-members . . .").

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

<sup>20</sup> See Securities Exchange Act Release No. 75257 (June 22, 2015), 80 FR 36862, 36864 (June 26, 2015) (SR-Nasdaq-2015-055) ("NLS Plus Approval Order").

<sup>21</sup> See *id.* at 36863. ("In addition to last sale information, NLS Plus also disseminates the following data elements: Trade Price, Trade Size, Sale Condition Modifiers, Cumulative Consolidated Market Volume, End of Day Trade Summary, Adjusted Closing Price, IPO Information, and Bloomberg ID (together the "data elements"). NLS Plus also features and disseminates the following messages: Market Wide Circuit Breaker, Reg SHO Short Sale Price Test Restricted Indicator, Trading Action, Symbol Directory, Adjusted Closing Price, and End of Day Trade Summary (together the "messages").").

<sup>22</sup> See *id.* at 36863. ("Consolidated volume reflects the consolidated volume at the time that the NLS Plus trade message is generated, and includes the volume for the issue symbol as reported on the consolidated market data feed. The consolidated volume is based on the real-time trades reported via the UTP Trade Data Feed ("UTDF") and delayed trades reported via CTA. NASDAQ OMX calculates the real-time trading volume for its trading venues, and then adds the real-time trading volume for the other (non-NASDAQ OMX) trading venues as reported via the UTDF data feed. For non-NASDAQ-listed issues, the consolidated volume is

end of day messages and volume information have already been shown to be consistent with Section 6(b) of the Act, this analysis therefore focuses on the consistency of the proposal to enhance the EOD summary message with data on the open, high, low and closing price of a security published by the SIPs.

NLS Plus competes with the substitute top-of-book proprietary data products offered by other exchanges, including the NYSE BQT feed, which disseminates top-of-book information from the NYSE, NYSE American, NYSE Arca, NYSE National, and NYSE Chicago exchanges,<sup>23</sup> and the Cboe One Summary Feed, which disseminates data from the BZX Exchange, BYX Exchange, EDGX Exchange and EDGA Exchange.<sup>24</sup> NLS Plus also competes with the offerings of data vendors that distribute the proprietary data feeds of Nasdaq and other exchanges. Of particular importance here, Nasdaq obtains data from the SIPs on the same terms as any data vendor, and Nasdaq has no latency, cost, or other advantage in the distribution of end of day SIP data as proposed herein. Retail customers are potentially able to obtain such information from any distributor of SIP data.

This Proposal reflects the competitive nature of these markets. As noted above, both NYSE and Cboe expanded their end of day summary messages in 2020 to identify the primary listing market's official opening and closing price after a 15-minute delay.<sup>25</sup> Nasdaq's change to

based on trades reported via SIAC's Consolidated Tape System ("CTS") for the issue symbol. The Exchange calculates the real-time trading volume for its trading venues, and then adds the 15-minute delayed trading volume for the other (non-NASDAQ OMX) trading venues as reported via the CTS data feed.").

<sup>23</sup> See Securities Exchange Act Release No. 87803 (December 19, 2019), 84 FR 71505 (December 27, 2019) (SR-NYSE-2019-70) (explaining that the NYSE BQT market data product competes "head to head with the Nasdaq Basic and Cboe One Feed market data products.").

<sup>24</sup> See [https://markets.cboe.com/us/equities/market\\_data\\_services/#:~:text=Cboe%20Top%20is%20a%20real,time%20on%20a%20Cboe%20book.&text=It%20is%20a%20real%20time,time%20on%20a%20Cboe%20book](https://markets.cboe.com/us/equities/market_data_services/#:~:text=Cboe%20Top%20is%20a%20real,time%20on%20a%20Cboe%20book.&text=It%20is%20a%20real%20time,time%20on%20a%20Cboe%20book). We note that Cboe recently proposed a fee reduction for top-of-book data as well. See Securities Exchange Act Release No. 86670 (August 14, 2019), 84 FR 43207 (August 20, 2019) (SR-CboeBYX-2019-012).

<sup>25</sup> See Securities Exchange Act Release No. 89083 (June 17, 2020), 85 FR 37706 (June 23, 2020) (SR-CboeEDGX-2020-029) (amending the content of the Cboe One Feed to identify the primary listing market's official opening and closing price, effective July 10, 2020); NYSE Best Quote and Trades Client Specification, Version 2.3a (March 30, 2020), available at [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_BQT\\_Client\\_Specification\\_v2.3a.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_BQT_Client_Specification_v2.3a.pdf) (updated on January 31, 2020, to publish the listing market official opening and closing price in the Consolidated Stock Summary Messages).

the EOD summary message is, in part, a competitive response to the data feed changes introduced by these two competitors. The Proposal also promotes competition by providing investors with an additional option for receiving consolidated EOD security data.

Moreover, as explained above, the Proposal will enhance investor understanding of the proprietary data distributed by the Exchange by providing a benchmark against which to compare such changes.

Competition with other exchanges in the sale of top-of-book products, coupled with potential competition from vendors in the distribution of proprietary and consolidated data feeds, and the likelihood that the Proposal will enhance investor understanding of securities markets and promote consumer choice, all provide a substantial basis for finding that the Proposal promotes just and equitable principles of trade, removes impediments to and perfect the mechanism of a free and open market and a national market system, and protects investors and the public interest.

The Proposal is not unfairly discriminatory. As noted previously, the NLS Plus data feed was found to be non-discriminatory and otherwise consistent with the Act in 2015.<sup>26</sup> The only change here is to enhance the EOD summary message with data on the open, high, low and closing price of a security published by the SIPs. As explained above, the proposed change to the EOD summary message is not targeted at, or expected to be limited in its applicability to, any particular segment of market participants, and no segment of retail investors, the general investing public, or any other market participant is expected to benefit more than any other. The proposed EOD summary message will be available to all NLS Plus purchasers, without differentiation of any kind, and is therefore not unfairly discriminatory.

### *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.

### *Intermarket Competition*

The Proposal, which adds the high, low, opening and closing price of a

<sup>26</sup> See Securities Exchange Act Release No. 75257 (June 22, 2015), 80 FR 36862, 36864 (June 26, 2015) (SR-Nasdaq-2015-055) ("NLS Plus Approval Order").

security as published by the SIP to the NLS Plus EOD message, will place no burden on intermarket competition (the competition among SROs). As explained above, NLS Plus already competes directly against the NYSE BQT feed and the Cboe One Summary Feed, and is subject to potential competition from market data vendors. In the particular context of distributing the proposed EOD message, the Exchange is in direct competition with any vendor of SIP information, and any vendor not currently distributing SIP data would be able to do so by obtaining such information from the SIPs and adding that information to their market data products. Rather than place a burden competition, the Proposal will enhance competition by providing consumers with greater choice through an alternative EOD summary not currently offered by NYSE or Cboe.

### *Intramarket Competition*

The Proposal will not cause any unnecessary or inappropriate burden on intramarket competition (competition among exchange customers). As explained above, the Proposal is not targeted at, or expected to be limited in its applicability to, any particular segment of market participants, and no segment of retail investors, the general investing public, or any other market participant is expected to benefit more than any other. As such, the Proposal does not place any category of market participant at a relative disadvantage compared to any other market participant, and therefore will not impose any burden on competition not necessary or appropriate in furtherance of the Act.

### *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**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

19(b)(3)(A) of the Act<sup>27</sup> and Rule 19b-4(f)(6) thereunder.<sup>28</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 necessary or appropriate in the public interest, for the protection of investors, or 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 change 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-2021-010 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-2021-010. 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-2021-010 and should be submitted on or before March 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021-04681 Filed 3-5-21; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0346, File No. 270-305]

#### Proposed Collection; 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:*

Rule 34b-1.

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") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 34b-1 under the Investment Company Act (17 CFR 270.34b-1) governs sales material that accompanies or follows the delivery of a statutory prospectus ("sales literature"). Rule 34b-1 deems to be materially misleading any investment company ("fund") sales literature required to be filed with the Securities and Exchange Commission ("Commission") by Section 24(b) of the Investment Company Act

(15 U.S.C. 80a-24(b)) that includes performance data, unless the sales literature also includes the appropriate uniformly computed data and the legend disclosure required in investment company advertisements by rule 482 under the Securities Act of 1933 (17 CFR 230.482). Requiring the inclusion of such standardized performance data in sales literature is designed to prevent misleading performance claims by funds and to enable investors to make meaningful comparisons among funds.

The Commission estimates that on average approximately 351 respondents file 7,362<sup>1</sup> responses that include the information required by rule 34b-1 each year. The burden resulting from the collection of information requirements of rule 34b-1 is estimated to be 6 hours per response. The total hourly burden for rule 34b-1 is approximately 46,278 hours per year in the aggregate.<sup>2</sup>

The collection of information under rule 34b-1 is mandatory. The information provided under rule 34b-1 is not kept confidential. The Commission may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

<sup>1</sup> The estimated number of responses to rule 34b-1 is composed of 7,362 responses filed with FINRA and 351 responses filed with the Commission in 2019.

<sup>2</sup> 7,713 responses × 6 hours per response = 46,278 hours.

<sup>27</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>28</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>29</sup> 17 CFR 200.30-3(a)(12).