to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments
- Use the Commission’s internet comment form (https://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include file number SR–NASDAQ–2023–046 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–2023–046. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (https://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2023–046 and should be submitted on or before December 12, 2023.

SECURITIES AND EXCHANGE COMMISSION


November 15, 2023.

On September 20, 2023, The Nasdaq Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) 1 and Rule 19b–4 thereunder, 2 a proposed rule change to list and trade shares of the Hashdex Nasdaq Ethereum ETF under Nasdaq Rule 5711(i) (Trust Units). The proposed rule change was published for comment in the Federal Register on October 3, 2023. 3

Section 19(b)(2) of the Act 4 provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 17, 2023. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to
II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to amend the Fee Schedule to adopt fees for the NYSE Options Intra-Day Volume Summary, which will be available for purchase by any market participant, i.e., members and non-members. The Exchange proposes to implement fees for the NYSE Options Intra-Day Volume Summary market data product on November 1, 2023. The proposed fees would be applied equally to all market participants and all market participants would receive the same information in the data feed.

Background

By way of background, pursuant to the Product Filing, the Exchange adopted two versions of the NYSE Options Intra-Day Volume Summary: an End of Day Volume Summary market data product and an Intra-Day Volume Summary market data product. The Exchange initially introduced the End of Day Volume Summary market data product on March 1, 2022 and adopted fees for the End of Day Volume Summary market data product. The purpose of this filing is to adopt fees for the Intra-Day Volume Summary market data product.

The Intra-Day Volume Summary provides a volume summary of trading activity on the Exchange at the option level by origin (Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker), side of the market (buy or sell), contract volume, and transaction type (opening or closing). The Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intra-Day Volume Summary provides similar information to that of the End of Day Volume Summary but is produced and updated every 10 minutes during the trading day. The data is captured in “snapshots” taken every 10 minutes throughout the trading day and will be available to subscribers within five minutes of the conclusion of each 10-minute period. Each update would represent combined data captured from the current “snapshot” and all previous “snapshots” and would thus provide open-close data on an aggregate basis.

The NYSE Options Open-Close Volume Summary is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange anticipates a wide variety of market participants to purchase the Intra-Day Volume Summary data product, including, but not limited to, individual customers, buy-side investors, and investment banks. The Exchange believes the Intra-Day Volume Summary would provide subscribers data that should enhance their ability to analyze options trade and volume data, and to create and test trading models and analytical strategies. The Exchange believes the Intra-Day Volume Summary will be a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular options series. The Intra-Day Volume Summary is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may

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6 The Exchange has announced that it will begin [sic] migrating Exchange-listed options to the Pillar technology platform on October 23, 2023, available here: https://www.nyse.com/trader-update/history?page=941100000635126.


8 The terms Customer, Professional Customer, Firm and Market Maker are defined in Rule 900.2NY.