

Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2026 - * 003

Amendment No. (req. for Amendments *)

Filing by The Nasdaq Stock Market LLC

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

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input checked="" type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		
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Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

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

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

A proposal to amend the pricing for Exchange-Traded Products.

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 * [Redacted] Last Name * [Redacted]
 Title * [Redacted]
 E-mail * [Redacted]
 Telephone * [Redacted] Fax [Redacted]

Signature

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

Date 01/12/2026 (Title *)
 By John A. Zecca EVP and Chief Legal Officer
 (Name *)

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

 Date: 2026.01.12 11:41:38 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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SR-NASDAQ-2026-003 19b-4.docx

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 *

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SR-NASDAQ-2026-003 Exhibit 1.docx

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

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

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

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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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

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SR-NASDAQ-2026-003 Exhibit 5.docx

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) The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend the Exchange’s fees and incentives for Exchange-Traded Products (“ETPs”) by: (i) adding Class ETF Shares (as defined below) to the listing fees and pricing programs applicable to other Nasdaq-listed ETPs; (ii) eliminating prorated refunds for ETP liquidations; (iii) modifying how certain market quality metrics in the Designated Liquidity Provider (as defined below) and Market Quality Supporter (as defined below) programs will be calculated; and (iv) modifying how Low Volume ETPs (as defined below) will be measured for purposes of Market Quality Supporter assignments.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

a. Purpose

The purpose of the proposed rule change is to amend the Exchange’s fees and incentives for ETPs by: (i) adding Class ETF Shares³ listed pursuant to Rule 5703 to the Exchange’s listing fees and pricing programs applicable to other Nasdaq-listed ETPs; (ii) eliminating pro-rated refunds for ETP liquidations; (iii) modifying how certain market quality metrics in the Designated Liquidity Provider⁴ (“DLP”) and Market Quality Supporter⁵ (“MQS”) programs will

³ The term “Class ETF Shares” means shares of the ETF Class issued by a Multi-Class Fund. The term “ETF Class” means the class of exchange-traded shares of a Multi-Class Fund that (i) operates as an exchange-traded fund pursuant to exemptive relief granted by order under the Investment Company Act of 1940 (“Multi-Class Fund Exemptive Relief”), and (ii) is in compliance with the requirements of Rules 5703(d)(ii) and 5703(d)(2)(A)(i)(2) on an initial and continued listing basis. The term “Multi-Class Fund” means a registered open-end management company that (i) pursuant to Multi-Class Fund Exemptive Relief, issues Class ETF Shares and one or more classes of shares that are not exchange traded, and (ii) is in compliance with the conditions and requirements of the Multi-Class Fund Exemptive Relief. See Rule 5703(c)(1) - (3).

⁴ A "Designated Liquidity Provider" is a registered Nasdaq market maker for a Qualified Security that has committed to maintain minimum performance standards. A DLP is selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. For purposes of the DLP program, a security may be designated as a "Qualified Security" if: (A) it is an exchange-traded product listed on Nasdaq pursuant to Nasdaq Rules 5703, 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750 or 5760; and (B) it has one Designated Liquidity Provider. See Equity 7, Section 114(f)(1) and (2).

⁵ A “Market Quality Supporter” has committed to maintain minimum performance standards in Low Volume ETPs as defined in Equity 7, Section 114(g)(4)(A). A MQS is selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. See Equity 7, Section 114(g)(2).

be calculated; and (iv) modifying how Low Volume ETPs⁶ will be measured for purposes of MQS assignments.

The Exchange initially filed the proposed pricing changes on January 2, 2026 (SR-NASDAQ-2026-001). On January 12, 2026, the Exchange withdrew that filing and submitted this filing.

Class ETF Shares

The Exchange recently received approval to list and trade Class ETF Shares pursuant to Rule 5703.⁷ The Exchange now proposes to amend its listing fees in Rule 5940 to begin charging the same fees it presently assesses to the vast majority of other ETPs listed on the Exchange.⁸ First, the introductory paragraph of Rule 5940 will be expanded to clarify that the securities covered by this Rule include, but are not limited to, Class ETF Shares.⁹ Second, the Exchange proposes to add Class ETF Shares to the list of ETPs covered by Rule 5940(a). As a result of this change, when a Company¹⁰ submits an application for listing a series of Class ETF Shares, there shall be no initial listing fee or application fee. This mirrors how the Exchange currently charges no initial listing or application fees for the other ETPs covered by Rule 5940(a). Third, the

⁶ As presently used in the MQS program, the term "Low Volume" ETPs means ETPs with a monthly ADV of 1 million shares or less in the prior month. See current Equity 7, Section 114(g)(4)(A).

⁷ See Securities Exchange Release No. 104252 (November 24, 2025), 90 FR 54781 (November 28, 2025) (SR-NASDAQ-2025-037).

⁸ The Exchange notes that it assesses separate listing fees in Rule 5930 for Selected Equity-linked Debt Securities ("SEEDS") and other securities listed pursuant to Rules 5715 and 5730, respectively. The Exchange assesses separate listing fees in Rule 5935 for Non-Convertible Bonds listed pursuant to Rule 5702. For all other securities listed under the Rule 5700 Series, the listing fees in Rule 5940 would apply.

⁹ Today, the other securities listed under the Rule 5700 Series that are covered by the listing fees in Rule 5940 include Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Shares, Linked Securities and NextShares.

¹⁰ "Company" means the issuer of a security listed or applying to list on Nasdaq. For purposes of the Rule 5000 Series, the term "Company" includes an issuer that is not incorporated, such as, for example, a limited partnership. See Rule 5005(a)(6).

Exchange proposes to add Class ETF Shares to the list of ETPs covered by Rule 5940(b). As a result, the issuer of a series of Class ETF Shares will be assessed an annual listing fee of \$4,000 per product, consistent with how the other ETPs covered by Rule 5940(b) are charged today.

The Exchange also proposes to add Class ETF Shares to the list of ETPs that may be designated as a Qualified Security¹¹ under the Exchange's DLP and MQS programs under Equity 7, Sections 114(f)(1) and 114(g)(1), respectively. The Exchange currently offers rebates and stipends under the DLP and MQS programs, which applies to transactions in a Qualified Security by the DLP or MQS associated with its DLP or MQS program market participant identifier ("MPID"). Both the DLP and MQS programs are intended to encourage DLPs and MQSs to maintain better market quality in Nasdaq-listed securities. While there are currently no Class ETF Shares listed and trading on the Exchange pursuant to Rule 5703, the Exchange believes that any future Class ETF Shares would benefit from support from a market quality perspective, consistent with the other ETPs designated as Qualified Securities under the DLP and MQS programs.

ETP Liquidation Refunds

Today, pursuant to Rule 5940(b)(7), the Exchange refunds liquidations a portion of the \$4,000 annual listing fee on a prorated basis based on the number of months listed during the calendar year of liquidation. The Exchange has determined that the prorated refund is not operationally efficient for ETP liquidations. Following liquidation, ETPs cease operations, making it necessary to engage in additional backend processing and coordination with sponsors or other third-party service providers in order to identify refund recipients and complete

¹¹ A security may be designated as a "Qualified Security" if: (A) it is an exchange-traded product listed on Nasdaq pursuant to Nasdaq Rules 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750 or 5760; and (B) it has one Designated Liquidity Provider (for the DLP program) or at least one Market Quality Supporter (for the MQS program). See current Equity 7, Sections 114(f)(1) and 114(g)(1).

payment. Accordingly, the Exchange will no longer provide a prorated refund of the \$4,000 annual listing fee for ETP liquidations, and proposes to eliminate the language in Rule 5940(b)(7).

DLP and MQS Market Quality Metrics

Pursuant to Equity 7, Sections 114(f) and 114(g), the Exchange presently maintains a DLP program and MQS program, each of which are designed to enhance liquidity and market quality in Nasdaq-listed ETPs by providing incentives to the DLP or MQS for an ETP that is designated as a Qualified Security. The MQS program is designed to complement the DLP program by allowing up to three MQSs per Nasdaq-listed ETP to support market quality for Low Volume ETPs. As set out in Equity 7, Section 114(f)(4) and Section 114(g)(4), the DLP and MQS programs use market quality performance standards (“Market Quality Metrics” or “MQMs”) based on the ETP’s underlying investment strategy, which determine eligibility for DLP and MQS program incentives.¹² The MQMs for the DLP program as set out in Equity 7, Section 114(f)(4)(B) are as follows:

Market Quality Metrics	High Volume ETPs	Investment Strategy Group A ETPs	Investment Strategy Group B ETPs	Investment Strategy Group C ETPs
Time at the NBBO with a minimum notional size of \$5,000	40%	45%	45%	45%
Average Notional Depth within 25 basis points of the NBBO	\$75,000	\$40,000	\$30,000	\$20,000

¹² The Exchange recently adopted the current iteration of the DLP program and the new MQS program in SR-NASDAQ-2025-102. See Securities Exchange Act Release No. 104444 (December 18, 2025), 90 FR 60168 (December 23, 2025).

Average Spread in basis points	25	35	60	100
Auction Reference Price Difference (Opening) of first reference price within 30 seconds prior to the market open must be within basis points	150	150	150	150
Auction Reference Price Difference (Closing) of first reference price within 120 seconds prior to the market close must be within basis points	50	50	50	50
Auction Spread in basis points with \$37,500 notional depth (Opening)	75	105	180	300
Auction Spread in basis points with \$75,000 notional depth (Closing)	25	35	60	100

The MQMs for the MQS program as set out in Equity 7, Section 114(g)(4)(B) are as follows:

Market Quality Metrics	Investment Strategy Group A ETPs	Investment Strategy Group B ETPs	Investment Strategy Group C ETPs
Average Notional Depth within 75 basis points of the NBBO	\$125,000	\$75,000	\$50,000
Average Spread in basis points	35	60	100

Auction Spread in basis points with \$37,500 notional depth (Opening)	105	180	300
Auction Spread in basis points with \$75,000 notional depth (Closing)	35	60	100

Today, these Market Quality Metrics are generally measured on average in the assigned ETP during regular market hours, except the Auction Spread (opening and closing) metrics are measured at and directly before each auction, respectively, against the metrics and averaged for the period.

The Exchange now proposes to amend how it calculates the following MQMs when the DLP or MQS does not meet the applicable notional requirements on a given trading day: the Time at the NBBO with a minimum notional size of \$5,000 (DLP program only), Auction Spread in basis points with \$37,500 notional depth (Opening), and Auction Spread in basis points with \$75,000 notional depth (Closing). Under the proposal, if a DLP fails to meet the notional thresholds for the metrics of Time at the NBBO and Auction Spread (both opening and closing) on a given day, that day will be excluded from those average calculations. However, to ensure consistent participation, the DLP will have to meet the applicable notional thresholds on at least 50% of the days in a given month.¹³ Otherwise, the DLP will be deemed to have failed that MQM for that month. Likewise, if a MQS fails to meet the notional thresholds for Auction Spread (both opening and closing) metrics on a given day, that day will be excluded from those

¹³ See proposed Equity 7, Section 114(f)(4)(B).

average calculations, except that the MQS must meet such notional thresholds at least 50% of the days in a given month.¹⁴

The Time at the NBBO and Auction Spread (opening and closing) metrics each include a minimum notional size requirement as a component of the applicable quoting obligation. When a DLP or a MQS does not meet the required notional threshold on a given trading day, the resulting quote does not reflect the same level of liquidity provision (even if it met the requisite quoting obligation) compared to a quote that satisfies the notional threshold and the requisite quoting obligation. The Exchange therefore believes that including such days in the monthly average calculation would not provide an accurate measure of DLP and MQS performance. At the same time, requiring DLPs and MQSs to meet the notional thresholds on at least 50% of the trading days ensures that DLPs and MQSs provide consistent and appropriate liquidity throughout the month.

The Exchange recently adopted the above MQMs containing dual requirements as part of SR-NASDAQ-2025-102.¹⁵ As discussed in that rule filing, the Exchange did not require DLPs and MQSs to meet the MQMs in the amended DLP program and new MQS program for the month of December 2025 in order to provide them with adequate time to transition to the MQMs, including the new ones with dual requirements like the Time at the NBBO and Auction Spread (opening and closing) metrics. January 2026 is therefore the first month that these new MQMs go into effect for DLPs and MQSs. Accordingly, the proposed 50% threshold discussed above is not a reduction of existing obligations, but rather a clarification of how the new dual requirements will be evaluated each month.

¹⁴ See proposed Equity 7, Section 114(g)(4)(B).

¹⁵ See supra note 12.

MQS Program Eligibility

Today, the Exchange offers the MQS program in Equity 7, Section 114(g), which allows up to three MQSs per Nasdaq-listed ETP to support market quality for Low Volume ETPs. Under the current rules, eligibility for the MQS program is based on the ETP's trading volume, as measured by its average daily volume ("ADV")¹⁶ during the prior month. Today, ETPs with a monthly ADV of 1 million shares or less in the prior month qualify as Low Volume ETPs and may be eligible for MQS assignment and associated MQS incentives. Because the Low Volume ETP threshold is calculated month-by-month, an ETP's eligibility for the MQS program may change as the ETP's trading volume fluctuates over time. Under the current framework, this can result in ETPs automatically moving in and out of the MQS program based on short-term changes in trading activity.

The Exchange now proposes in Equity 7, Section 114(g)(4)(A) to amend how eligibility for the MQS program will be determined and reviewed. Specifically, the Exchange proposes to amend the definition of Low Volume ETPs as ETPs with a monthly ADV of 1 million shares or less in the prior month, measured at the time the MQS is assigned in the MQS program with respect to such ETP. The Exchange also proposes to add the following provision in Section 114(g)(4)(A) to specify how the Exchange will review for MQS program eligibility: "Annually, the Exchange will review ETPs with MQS assignments and those that are above 1 million shares ADV on average over the prior year will be removed from the program." The Exchange believes

¹⁶ The term average daily volume ("ADV") means the total consolidated volume reported to all consolidated transaction reporting plans, for each individual security, by all exchanges and trade reporting facilities during a month divided by the number of trading days during the month. If a security is not listed for a full month, the number of trading days will only include the days which the security is listed. See Equity 7, Section 114(g).

that the proposed changes will provide transparency and predictability regarding MQS program eligibility.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”¹⁹

The Commission and the courts have repeatedly expressed their preference for

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(4) and (5).

¹⁹ NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²⁰

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Class ETF Shares

The Exchange believes that the proposed changes to add Class ETF Shares to the listing fees set forth in Rule 5940 are reasonable because they would align the fees charged to the vast majority of other ETPs listed on the Exchange.²¹ Specifically with the proposed changes, the Exchange would assess Class ETF Shares no initial listing fee or application fee and an annual listing fee of \$4,000 per product, consistent with the other ETPs covered by Rule 5940. Similar to the other ETPs covered by Rule 5940, the Exchange believes that the annual listing fee of \$4,000 per product for Class ETF Shares are reasonable and necessary to support the anticipated

²⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

²¹ See supra notes 8 and 9.

Exchange costs associated with listing and trading Class ETF Shares on the Exchange, including costs related issuer services and listing administration. The Exchange further believes that its proposal is equitable and not unfairly discriminatory because the listing fees in Rule 5940 will apply uniformly to all issuers of Class ETF Shares on the Exchange.

The Exchange also believes that it is reasonable to expand the list of ETPs that may be designated as a Qualified Security under the DLP and MQS programs to add Class ETF Shares because these incentive programs are designed to encourage better market quality. By adding Class ETF Shares to these programs, the Exchange believes that these ETPs would benefit from market quality support, similar to the other ETPs that are currently designated as Qualified Securities in Equity 7, Sections 114(f)(1) and 114(g)(1). The Exchange further believes that its proposal to add Class ETF Shares as Qualified Securities in the DLP and MQS programs is equitable and not unfairly discriminatory because it will apply uniformly to all issuers of Class ETF Shares on the Exchange. The Exchange believes that its proposal is equitable and not unfairly discriminatory because the expanded list of securities that may be designated as a Qualified Security under the DLP and MQS programs would allow for more ETPs to be designated as Qualified Securities and thereby allow more DLPs and MQSs to receive incentives under the respective programs in exchange for meeting MQMs that are designed to improve market quality in Qualified Securities. Further, the tightened spreads and increased liquidity from the proposal will benefit all market participants and investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, enhancing quoting competition across exchanges, promoting market transparency, and improving investor protection. Accordingly, the Exchange believes that the

proposal is equitable and not unfairly discriminatory because it would improve the quality of the Nasdaq market to the benefit of all market participants and investors.

ETP Liquidation Refunds

The Exchange believes that its proposal to sunset the prorated refund of the annual listing fee for ETP liquidations in Rule 5940(b)(7) is reasonable because the proposed change will increase the efficiency of operating the Exchange's fee program. As discussed above, the liquidation refund process currently requires additional and individualized handling to identify refund recipients and complete payment. The Exchange further believes that the proposal is equitable and not unfairly discriminatory because it will apply uniformly to all ETPs covered by Rule 5940 and the issuers of such ETPs.²² Lastly, the Exchange notes that it does not presently provide a prorated refund of annual listing fees for liquidations of other types of listed ETPs.²³

DLP and MQS Market Quality Metrics

The Exchange believes that the proposed changes to the DLP and MQS programs are reasonable because the changes will clarify how certain MQMs (i.e., Time at the NBBO for the DLP program and Auction Spread (opening and closing) for both the DLP and MQS programs) are calculated when a DLP or a MQS does not meet the applicable notional threshold on a given trading day. As discussed above, these MQMs each include a minimum notional size requirement as a component of the applicable quoting obligation. When the DLP or MQS does not meet the notional threshold on a given day, the resulting quote does not reflect the same level of liquidity provision as a quote that satisfies the full requirement. Excluding such days from the monthly average calculation would ensure that these Market Quality Metrics are based on

²² See supra note 9.

²³ See e.g., Rule 5930.

comparable and meaningful performance data of the DLP and MQS. At the same time, the Exchange believes that requiring the DLP and MQS to meet the applicable notional threshold at least 50% of the days in a given month is a reasonable participation standard that is designed to ensure consistent and appropriate liquidity provision. Further, the Exchange recently adopted the foregoing MQMs with dual requirements as part of SR-NASDAQ-2025-102.²⁴ As discussed in that rule filing, the Exchange did not require DLPs and MQSs to meet the MQMs in the amended DLP program and new MQS program for the month of December 2025 in order to provide them with adequate time to transition to the MQMs, including the new ones with dual requirements like the Time at the NBBO and Auction Spread (opening and closing) metrics. January 2026 is therefore the first month that these new MQMs go into effect for DLPs and MQSs. Accordingly, the proposed 50% threshold discussed above is not a reduction of existing obligations, but rather a clarification of how the new dual requirements will be evaluated each month.

The Exchange also believes that the proposed changes to the DLP and MQS program MQMs described above are equitable and not unfairly discriminatory because the changes will apply uniformly to all DLPs and MQSs. The Exchange believes the proposal will improve the administration of the DLP and MQS programs while continuing to encourage meaningful liquidity that benefits all market participants.

MQS Program Eligibility

The Exchange believes that the proposed changes to the MQS program discussed above are reasonable because they establish a clear and transparent framework for determining MQS eligibility while recognizing that ETP volume may fluctuate over time. Measuring volume at the time of MQS assignment provides market participants with certainty regarding program

²⁴ See supra note 12.

eligibility, while the proposed annual review ensures that ETPs that experience sustained increases in trading volume no longer receive incentives intended for lower-volume products. The Exchange believes that an annual review strikes an appropriate balance between accuracy and predictability by avoiding frequent month-to-month changes that could create confusion for ETP issuers and MQSs, while still ensuring that the MQS incentives are aligned with the program's objectives to provide market quality in lower volume ETPs.

The Exchange further believes that its proposal is equitable and not unfairly discriminatory because it would apply uniformly to all members that choose to participate as MQSs. The proposal is intended to provide transparency and predictability regarding MQS eligibility, which may in turn fortify participation in the MQS program and promote market quality in Low Volume ETPs, to the benefit of all market participants.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe that the proposed changes discussed above will impose an undue burden on intra-market competition because the changes will apply uniformly to all similarly situated market participants. As it relates to the proposed changes to the DLP and MQS programs, to the extent these changes result in greater participation in these incentive programs, the Exchange believes that the resulting improvement in market quality in Nasdaq-listed ETPs would benefit all market participants through additional trading opportunities, tighter spreads, and enhanced price discovery.

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. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

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

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION****[Release No. 34 ; File No. SR-NASDAQ-2026-003]****Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Pricing Schedule for Exchange-Traded Products**

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 January 12, 2026, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange’s fees and incentives for Exchange-Traded Products (“ETPs”) by: (i) adding Class ETF Shares (as defined below) to the listing fees and pricing programs applicable to other Nasdaq-listed ETPs; (ii) eliminating prorated refunds for ETP liquidations; (iii) modifying how certain market quality metrics in the Designated Liquidity Provider (as defined below) and Market Quality Supporter (as defined below) programs will be calculated; and (iv) modifying how Low Volume ETPs (as defined below) will be measured for purposes of Market Quality Supporter assignments.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule change is available on the Exchange's Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

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 purpose of the proposed rule change is to amend the Exchange's fees and incentives for ETPs by: (i) adding Class ETF Shares³ listed pursuant to Rule 5703 to the Exchange's listing fees and pricing programs applicable to other Nasdaq-listed ETPs; (ii) eliminating pro-rated refunds for ETP liquidations; (iii) modifying how certain market quality metrics in the

³ The term "Class ETF Shares" means shares of the ETF Class issued by a Multi-Class Fund. The term "ETF Class" means the class of exchange-traded shares of a Multi-Class Fund that (i) operates as an exchange-traded fund pursuant to exemptive relief granted by order under the Investment Company Act of 1940 ("Multi-Class Fund Exemptive Relief"), and (ii) is in compliance with the requirements of Rules 5703(d)(ii) and 5703(d)(2)(A)(i)(2) on an initial and continued listing basis. The term "Multi-Class Fund" means a registered open-end management company that (i) pursuant to Multi-Class Fund Exemptive Relief, issues Class ETF Shares and one or more classes of shares that are not exchange traded, and (ii) is in compliance with the conditions and requirements of the Multi-Class Fund Exemptive Relief. See Rule 5703(c)(1) - (3).

Designated Liquidity Provider⁴ (“DLP”) and Market Quality Supporter⁵ (“MQS”) programs will be calculated; and (iv) modifying how Low Volume ETPs⁶ will be measured for purposes of MQS assignments.

The Exchange initially filed the proposed pricing changes on January 2, 2026 (SR-NASDAQ-2026-001). On January 12, 2026, the Exchange withdrew that filing and submitted this filing.

Class ETF Shares

The Exchange recently received approval to list and trade Class ETF Shares pursuant to Rule 5703.⁷ The Exchange now proposes to amend its listing fees in Rule 5940 to begin charging the same fees it presently assesses to the vast majority of other ETPs listed on the Exchange.⁸ First, the introductory paragraph of Rule 5940 will be expanded to clarify that the securities covered by this Rule include, but are not limited to, Class ETF Shares.⁹ Second, the Exchange

⁴ A "Designated Liquidity Provider" is a registered Nasdaq market maker for a Qualified Security that has committed to maintain minimum performance standards. A DLP is selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. For purposes of the DLP program, a security may be designated as a "Qualified Security" if: (A) it is an exchange-traded product listed on Nasdaq pursuant to Nasdaq Rules 5703, 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750 or 5760; and (B) it has one Designated Liquidity Provider. See Equity 7, Section 114(f)(1) and (2).

⁵ A "Market Quality Supporter" has committed to maintain minimum performance standards in Low Volume ETPs as defined in Equity 7, Section 114(g)(4)(A). A MQS is selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. See Equity 7, Section 114(g)(2).

⁶ As presently used in the MQS program, the term "Low Volume" ETPs means ETPs with a monthly ADV of 1 million shares or less in the prior month. See current Equity 7, Section 114(g)(4)(A).

⁷ See Securities Exchange Release No. 104252 (November 24, 2025), 90 FR 54781 (November 28, 2025) (SR-NASDAQ-2025-037).

⁸ The Exchange notes that it assesses separate listing fees in Rule 5930 for Selected Equity-linked Debt Securities ("SEEDS") and other securities listed pursuant to Rules 5715 and 5730, respectively. The Exchange assesses separate listing fees in Rule 5935 for Non-Convertible Bonds listed pursuant to Rule 5702. For all other securities listed under the Rule 5700 Series, the listing fees in Rule 5940 would apply.

⁹ Today, the other securities listed under the Rule 5700 Series that are covered by the listing fees in Rule 5940 include Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, Exchange Traded

proposes to add Class ETF Shares to the list of ETPs covered by Rule 5940(a). As a result of this change, when a Company¹⁰ submits an application for listing a series of Class ETF Shares, there shall be no initial listing fee or application fee. This mirrors how the Exchange currently charges no initial listing or application fees for the other ETPs covered by Rule 5940(a). Third, the Exchange proposes to add Class ETF Shares to the list of ETPs covered by Rule 5940(b). As a result, the issuer of a series of Class ETF Shares will be assessed an annual listing fee of \$4,000 per product, consistent with how the other ETPs covered by Rule 5940(b) are charged today.

The Exchange also proposes to add Class ETF Shares to the list of ETPs that may be designated as a Qualified Security¹¹ under the Exchange's DLP and MQS programs under Equity 7, Sections 114(f)(1) and 114(g)(1), respectively. The Exchange currently offers rebates and stipends under the DLP and MQS programs, which applies to transactions in a Qualified Security by the DLP or MQS associated with its DLP or MQS program market participant identifier ("MPID"). Both the DLP and MQS programs are intended to encourage DLPs and MQSs to maintain better market quality in Nasdaq-listed securities. While there are currently no Class ETF Shares listed and trading on the Exchange pursuant to Rule 5703, the Exchange believes that any future Class ETF Shares would benefit from support from a market quality perspective, consistent with the other ETPs designated as Qualified Securities under the DLP and MQS programs.

Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Shares, Linked Securities and NextShares.

¹⁰ "Company" means the issuer of a security listed or applying to list on Nasdaq. For purposes of the Rule 5000 Series, the term "Company" includes an issuer that is not incorporated, such as, for example, a limited partnership. See Rule 5005(a)(6).

¹¹ A security may be designated as a "Qualified Security" if: (A) it is an exchange-traded product listed on Nasdaq pursuant to Nasdaq Rules 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750 or 5760; and (B) it has one Designated Liquidity Provider (for the DLP program) or at least one Market Quality Supporter (for the MQS program). See current Equity 7, Sections 114(f)(1) and 114(g)(1).

ETP Liquidation Refunds

Today, pursuant to Rule 5940(b)(7), the Exchange refunds liquidations a portion of the \$4,000 annual listing fee on a prorated basis based on the number of months listed during the calendar year of liquidation. The Exchange has determined that the prorated refund is not operationally efficient for ETP liquidations. Following liquidation, ETPs cease operations, making it necessary to engage in additional backend processing and coordination with sponsors or other third-party service providers in order to identify refund recipients and complete payment. Accordingly, the Exchange will no longer provide a prorated refund of the \$4,000 annual listing fee for ETP liquidations, and proposes to eliminate the language in Rule 5940(b)(7).

DLP and MQS Market Quality Metrics

Pursuant to Equity 7, Sections 114(f) and 114(g), the Exchange presently maintains a DLP program and MQS program, each of which are designed to enhance liquidity and market quality in Nasdaq-listed ETPs by providing incentives to the DLP or MQS for an ETP that is designated as a Qualified Security. The MQS program is designed to complement the DLP program by allowing up to three MQSs per Nasdaq-listed ETP to support market quality for Low Volume ETPs. As set out in Equity 7, Section 114(f)(4) and Section 114(g)(4), the DLP and MQS programs use market quality performance standards (“Market Quality Metrics” or “MQMs”) based on the ETP’s underlying investment strategy, which determine eligibility for DLP and MQS program incentives.¹² The MQMs for the DLP program as set out in Equity 7, Section 114(f)(4)(B) are as follows:

¹² The Exchange recently adopted the current iteration of the DLP program and the new MQS program in SR-NASDAQ-2025-102. See Securities Exchange Act Release No. 104444 (December 18, 2025), 90 FR 60168 (December 23, 2025).

Market Quality Metrics	High Volume ETPs	Investment Strategy Group A ETPs	Investment Strategy Group B ETPs	Investment Strategy Group C ETPs
Time at the NBBO with a minimum notional size of \$5,000	40%	45%	45%	45%
Average Notional Depth within 25 basis points of the NBBO	\$75,000	\$40,000	\$30,000	\$20,000
Average Spread in basis points	25	35	60	100
Auction Reference Price Difference (Opening) of first reference price within 30 seconds prior to the market open must be within basis points	150	150	150	150
Auction Reference Price Difference (Closing) of first reference price within 120 seconds prior to the market close must be within basis points	50	50	50	50
Auction Spread in basis points with \$37,500 notional depth (Opening)	75	105	180	300
Auction Spread in basis points with \$75,000 notional depth (Closing)	25	35	60	100

The MQMs for the MQS program as set out in Equity 7, Section 114(g)(4)(B) are as follows:

Market Quality Metrics	Investment Strategy Group A ETPs	Investment Strategy Group B ETPs	Investment Strategy Group C ETPs
Average Notional Depth within 75 basis points of the NBBO	\$125,000	\$75,000	\$50,000
Average Spread in basis points	35	60	100
Auction Spread in basis points with \$37,500 notional depth (Opening)	105	180	300
Auction Spread in basis points with \$75,000 notional depth (Closing)	35	60	100

Today, these Market Quality Metrics are generally measured on average in the assigned ETP during regular market hours, except the Auction Spread (opening and closing) metrics are measured at and directly before each auction, respectively, against the metrics and averaged for the period.

The Exchange now proposes to amend how it calculates the following MQMs when the DLP or MQS does not meet the applicable notional requirements on a given trading day: the Time at the NBBO with a minimum notional size of \$5,000 (DLP program only), Auction Spread in basis points with \$37,500 notional depth (Opening), and Auction Spread in basis points with \$75,000 notional depth (Closing). Under the proposal, if a DLP fails to meet the notional thresholds for the metrics of Time at the NBBO and Auction Spread (both opening and closing) on a given day, that day will be excluded from those average calculations. However, to ensure consistent participation, the DLP will have to meet the applicable notional thresholds on

at least 50% of the days in a given month.¹³ Otherwise, the DLP will be deemed to have failed that MQM for that month. Likewise, if a MQS fails to meet the notional thresholds for Auction Spread (both opening and closing) metrics on a given day, that day will be excluded from those average calculations, except that the MQS must meet such notional thresholds at least 50% of the days in a given month.¹⁴

The Time at the NBBO and Auction Spread (opening and closing) metrics each include a minimum notional size requirement as a component of the applicable quoting obligation. When a DLP or a MQS does not meet the required notional threshold on a given trading day, the resulting quote does not reflect the same level of liquidity provision (even if it met the requisite quoting obligation) compared to a quote that satisfies the notional threshold and the requisite quoting obligation. The Exchange therefore believes that including such days in the monthly average calculation would not provide an accurate measure of DLP and MQS performance. At the same time, requiring DLPs and MQSs to meet the notional thresholds on at least 50% of the trading days ensures that DLPs and MQSs provide consistent and appropriate liquidity throughout the month.

The Exchange recently adopted the above MQMs containing dual requirements as part of SR-NASDAQ-2025-102.¹⁵ As discussed in that rule filing, the Exchange did not require DLPs and MQSs to meet the MQMs in the amended DLP program and new MQS program for the month of December 2025 in order to provide them with adequate time to transition to the MQMs, including the new ones with dual requirements like the Time at the NBBO and Auction Spread (opening and closing) metrics. January 2026 is therefore the first month that these new

¹³ See proposed Equity 7, Section 114(f)(4)(B).

¹⁴ See proposed Equity 7, Section 114(g)(4)(B).

¹⁵ See supra note 12.

MQMs go into effect for DLPs and MQSs. Accordingly, the proposed 50% threshold discussed above is not a reduction of existing obligations, but rather a clarification of how the new dual requirements will be evaluated each month.

MQS Program Eligibility

Today, the Exchange offers the MQS program in Equity 7, Section 114(g), which allows up to three MQSs per Nasdaq-listed ETP to support market quality for Low Volume ETPs. Under the current rules, eligibility for the MQS program is based on the ETP's trading volume, as measured by its average daily volume ("ADV")¹⁶ during the prior month. Today, ETPs with a monthly ADV of 1 million shares or less in the prior month qualify as Low Volume ETPs and may be eligible for MQS assignment and associated MQS incentives. Because the Low Volume ETP threshold is calculated month-by-month, an ETP's eligibility for the MQS program may change as the ETP's trading volume fluctuates over time. Under the current framework, this can result in ETPs automatically moving in and out of the MQS program based on short-term changes in trading activity.

The Exchange now proposes in Equity 7, Section 114(g)(4)(A) to amend how eligibility for the MQS program will be determined and reviewed. Specifically, the Exchange proposes to amend the definition of Low Volume ETPs as ETPs with a monthly ADV of 1 million shares or less in the prior month, measured at the time the MQS is assigned in the MQS program with respect to such ETP. The Exchange also proposes to add the following provision in Section 114(g)(4)(A) to specify how the Exchange will review for MQS program eligibility: "Annually,

¹⁶ The term average daily volume ("ADV") means the total consolidated volume reported to all consolidated transaction reporting plans, for each individual security, by all exchanges and trade reporting facilities during a month divided by the number of trading days during the month. If a security is not listed for a full month, the number of trading days will only include the days which the security is listed. See Equity 7, Section 114(g).

the Exchange will review ETPs with MQS assignments and those that are above 1 million shares ADV on average over the prior year will be removed from the program.” The Exchange believes that the proposed changes will provide transparency and predictability regarding MQS program eligibility.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange’s proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ ... As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(4) and (5).

possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'”¹⁹

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²⁰

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Class ETF Shares

The Exchange believes that the proposed changes to add Class ETF Shares to the listing fees set forth in Rule 5940 are reasonable because they would align the fees charged to the vast majority of other ETPs listed on the Exchange.²¹ Specifically with the proposed changes, the

¹⁹ NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

²¹ See supra notes 8 and 9.

Exchange would assess Class ETF Shares no initial listing fee or application fee and an annual listing fee of \$4,000 per product, consistent with the other ETPs covered by Rule 5940. Similar to the other ETPs covered by Rule 5940, the Exchange believes that the annual listing fee of \$4,000 per product for Class ETF Shares are reasonable and necessary to support the anticipated Exchange costs associated with listing and trading Class ETF Shares on the Exchange, including costs related issuer services and listing administration. The Exchange further believes that its proposal is equitable and not unfairly discriminatory because the listing fees in Rule 5940 will apply uniformly to all issuers of Class ETF Shares on the Exchange.

The Exchange also believes that it is reasonable to expand the list of ETPs that may be designated as a Qualified Security under the DLP and MQS programs to add Class ETF Shares because these incentive programs are designed to encourage better market quality. By adding Class ETF Shares to these programs, the Exchange believes that these ETPs would benefit from market quality support, similar to the other ETPs that are currently designated as Qualified Securities in Equity 7, Sections 114(f)(1) and 114(g)(1). The Exchange further believes that its proposal to add Class ETF Shares as Qualified Securities in the DLP and MQS programs is equitable and not unfairly discriminatory because it will apply uniformly to all issuers of Class ETF Shares on the Exchange. The Exchange believes that its proposal is equitable and not unfairly discriminatory because the expanded list of securities that may be designated as a Qualified Security under the DLP and MQS programs would allow for more ETPs to be designated as Qualified Securities and thereby allow more DLPs and MQSs to receive incentives under the respective programs in exchange for meeting MQMs that are designed to improve market quality in Qualified Securities. Further, the tightened spreads and increased liquidity from the proposal will benefit all market participants and investors by deepening the Exchange's

liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, enhancing quoting competition across exchanges, promoting market transparency, and improving investor protection. Accordingly, the Exchange believes that the proposal is equitable and not unfairly discriminatory because it would improve the quality of the Nasdaq market to the benefit of all market participants and investors.

ETP Liquidation Refunds

The Exchange believes that its proposal to sunset the prorated refund of the annual listing fee for ETP liquidations in Rule 5940(b)(7) is reasonable because the proposed change will increase the efficiency of operating the Exchange's fee program. As discussed above, the liquidation refund process currently requires additional and individualized handling to identify refund recipients and complete payment. The Exchange further believes that the proposal is equitable and not unfairly discriminatory because it will apply uniformly to all ETPs covered by Rule 5940 and the issuers of such ETPs.²² Lastly, the Exchange notes that it does not presently provide a prorated refund of annual listing fees for liquidations of other types of listed ETPs.²³

DLP and MQS Market Quality Metrics

The Exchange believes that the proposed changes to the DLP and MQS programs are reasonable because the changes will clarify how certain MQMs (i.e., Time at the NBBO for the DLP program and Auction Spread (opening and closing) for both the DLP and MQS programs) are calculated when a DLP or a MQS does not meet the applicable notional threshold on a given trading day. As discussed above, these MQMs each include a minimum notional size requirement as a component of the applicable quoting obligation. When the DLP or MQS does

²² See supra note 9.

²³ See e.g., Rule 5930.

not meet the notional threshold on a given day, the resulting quote does not reflect the same level of liquidity provision as a quote that satisfies the full requirement. Excluding such days from the monthly average calculation would ensure that these Market Quality Metrics are based on comparable and meaningful performance data of the DLP and MQS. At the same time, the Exchange believes that requiring the DLP and MQS to meet the applicable notional threshold at least 50% of the days in a given month is a reasonable participation standard that is designed to ensure consistent and appropriate liquidity provision. Further, the Exchange recently adopted the foregoing MQMs with dual requirements as part of SR-NASDAQ-2025-102.²⁴ As discussed in that rule filing, the Exchange did not require DLPs and MQSs to meet the MQMs in the amended DLP program and new MQS program for the month of December 2025 in order to provide them with adequate time to transition to the MQMs, including the new ones with dual requirements like the Time at the NBBO and Auction Spread (opening and closing) metrics. January 2026 is therefore the first month that these new MQMs go into effect for DLPs and MQSs. Accordingly, the proposed 50% threshold discussed above is not a reduction of existing obligations, but rather a clarification of how the new dual requirements will be evaluated each month.

The Exchange also believes that the proposed changes to the DLP and MQS program MQMs described above are equitable and not unfairly discriminatory because the changes will apply uniformly to all DLPs and MQSs. The Exchange believes the proposal will improve the administration of the DLP and MQS programs while continuing to encourage meaningful liquidity that benefits all market participants.

MQS Program Eligibility

²⁴ See supra note 12.

The Exchange believes that the proposed changes to the MQS program discussed above are reasonable because they establish a clear and transparent framework for determining MQS eligibility while recognizing that ETP volume may fluctuate over time. Measuring volume at the time of MQS assignment provides market participants with certainty regarding program eligibility, while the proposed annual review ensures that ETPs that experience sustained increases in trading volume no longer receive incentives intended for lower-volume products. The Exchange believes that an annual review strikes an appropriate balance between accuracy and predictability by avoiding frequent month-to-month changes that could create confusion for ETP issuers and MQSs, while still ensuring that the MQS incentives are aligned with the program's objectives to provide market quality in lower volume ETPs.

The Exchange further believes that its proposal is equitable and not unfairly discriminatory because it would apply uniformly to all members that choose to participate as MQSs. The proposal is intended to provide transparency and predictability regarding MQS eligibility, which may in turn fortify participation in the MQS program and promote market quality in Low Volume ETPs, to the benefit of all market participants.

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. Specifically, the Exchange does not believe that the proposed changes discussed above will impose an undue burden on intra-market competition because the changes will apply uniformly to all similarly situated market participants. As it relates to the proposed changes to the DLP and MQS programs, to the extent these changes result in greater participation in these incentive programs, the Exchange believes that the resulting improvement in market quality in Nasdaq-listed ETPs

would benefit all market participants through additional trading opportunities, tighter spreads, and enhanced price discovery.

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. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁵

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2026-003 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-2026-003. 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 filing 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-2026-003 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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

Sherry R. Haywood,

Assistant Secretary.

²⁶ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

THE NASDAQ STOCK MARKET LLC RULES

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5900. Company Listing Fees

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5940. Exchange Traded Products

The fees in this Rule 5940 shall apply to securities listed under the Rule 5700 Series where no other fee schedule is specifically applicable. These securities include, but are not limited to, Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, Class ETF Shares, Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Shares, Linked Securities and NextShares.

(a) Entry Fee

(1) When a Company submits an application for listing a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, Class ETF Shares, Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Shares, or Linked Securities or other security listed under the Rule 5700 Series where no other fee schedule is specifically applicable on the Nasdaq Global Market, there shall be no initial listing fee or application fee.

* * * * *

(b) All-Inclusive Annual Listing Fee

(1) The issuer of a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, Class ETF Shares, Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Shares, or Linked Securities or other security listed under the Rule 5700 Series where no other fee schedule is specifically applicable listed on The Nasdaq Global Market shall pay to Nasdaq an All-Inclusive Annual Listing Fee of \$4,000 for each product that is a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, Class ETF Shares, Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Shares, or Linked Securities or other security listed under the Rule 5700 Series where no other fee schedule is specifically applicable.

* * * * *

(7) [Liquidations will be refunded a portion of the All-Inclusive Annual Listing Fee on a prorated basis based on the number of months listed during the calendar year of liquidation]Reserved.

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Equity Rules

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Equity 7: Pricing Schedule

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Section 114. Market Quality Incentive Programs

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Designated Liquidity Provider (“DLP”) Program

(f) No change.

For purposes of this paragraph:

(1) A security may be designated as a "Qualified Security" if:

(A) it is an exchange-traded product listed on Nasdaq pursuant to Nasdaq Rules 5703, 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750 or 5760; and

(B) it has one Designated Liquidity Provider.

* * * * *

(4) Below are the monthly performance criteria related to the specific rebates and stipends provided under paragraph (5) below.

* * * * *

(B) **Market Quality Metrics.** To be eligible for the rebates and stipends in paragraph (5)(A) below, DLPs will need to meet 5 of the 7 the Market Quality Metrics, including Auction Spread (both opening and closing), in the assigned ETP as measured by Nasdaq. For leveraged and inversed ETPs, the Average Spread, Auction Spread, and Auction Reference Price Difference metrics are multiplied by the

absolute value of the leverage factor of the ETP. These Market Quality Metrics are measured on average in the assigned ETP during regular market hours, except for the Auction Reference Price Difference and Auction Spread metrics that are measured at and directly before each auction, respectively, against the metrics and averaged for the period. If a DLP fails to meet the notional thresholds for the metrics of Time at the NBBO and Auction Spread (both opening and closing) on a given day, that day will be excluded from those average calculations, except that the DLP must meet such notional thresholds at least 50% of the days in a given month.

Market Quality Metrics	High Volume ETPs	Investment Strategy Group A ETPs	Investment Strategy Group B ETPs	Investment Strategy Group C ETPs
Time at the NBBO with a minimum notional size of \$5,000	40%	45%	45%	45%
Average Notional Depth within 25 basis points of the NBBO	\$75,000	\$40,000	\$30,000	\$20,000
Average Spread in basis points	25	35	60	100
Auction Reference Price Difference (Opening) of first reference price within 30 seconds prior to the market open must be within basis points	150	150	150	150
Auction Reference Price Difference (Closing) of first reference price within 120 seconds prior to the market close must be within basis points	50	50	50	50
Auction Spread in basis points with \$37,500 notional depth (Opening)	75	105	180	300

Auction Spread in basis points with \$75,000 notional depth (Closing)	25	35	60	100
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(C) **Additional Tape C ETP Incentives for DLPs.** To be eligible for the rebates in paragraph (5)(B) below, a DLP must meet the Average Notional Depth and Average Spread metrics in paragraph (4)(B).

* * * * *

Market Quality Supporter (“MQS”) Program

(g) No change.

For purposes of this paragraph:

(1) A security may be designated as a “Qualified Security” if:

(A) it is an exchange-traded product listed on Nasdaq pursuant to Nasdaq Rules 5703, 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750 or 5760; and

(B) it has at least one Market Quality Supporter.

* * * * *

(4) Below are the monthly performance criteria related to the specific stipend provided under paragraph (5) below.

(A) **Investment Strategy Groups.** As used in the MQS Program, the term “Low Volume” ETPs shall mean ETPs with a monthly ADV of 1 million shares or less in the prior month, measured at the time the MQS is assigned in the MQS Program with respect to such ETP. Annually, the Exchange will review ETPs with MQS assignments and those that are above 1 million shares ADV on average over the prior year will be removed from the program. Nasdaq further segments Low Volume ETPs into Investment Strategy Groups A – C, which are different ETP investment strategies segmented by their average national best bid (best offer) (“NBBO”) spread in basis points, over the prior two calendar years. These Investment Strategy groups will be checked by the Exchange each calendar year to ensure the investment strategy’s average NBBO spread remains within its respective Investment Strategy group.

Investment Strategy Group	Average NBBO Spread in basis points
A	15 or less
B	16 – 28
C	29 or more

(B) **Market Quality Metrics.** To be eligible for the stipend in paragraph (5) below, MQSs will need to meet the Market Quality Metrics below in the assigned ETP as

measured by Nasdaq. For leveraged and inverse ETPs, the Average Spread and Auction Spread metrics are multiplied by the absolute value of the leverage factor of the ETP. These Market Quality Metrics are measured on average in the assigned ETP during regular market hours, except for the Auction Spread metric that is measured directly before each auction against the metrics and averaged for the period. An MQS that is also designated as the DLP in a Qualified Security will need to meet the Market Quality Metrics as set out in Section 114(f)(4) above to receive the MQS stipend. If a MQS fails to meet the notional thresholds for the Auction Spread (both opening and closing) metrics on a given day, that day will be excluded from those average calculations, except that the MQS must meet such notional thresholds at least 50% of the days in a given month.

Market Quality Metrics	Investment Strategy Group A ETPs	Investment Strategy Group B ETPs	Investment Strategy Group C ETPs
Average Notional Depth within 75 basis points of the NBBO	\$125,000	\$75,000	\$50,000
Average Spread in basis points	35	60	100
Auction Spread in basis points with \$37,500 notional depth (Opening)	105	180	300
Auction Spread in basis points with \$75,000 notional depth (Closing)	35	60	100

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