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

File No. * SR 2021 - * 107

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"/>
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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)

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 proposed rule change to modify certain exchange traded product listing fees.

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 * Jonathan Last Name * Cayne

Title * Principal Associate General Counsel

E-mail * jonathan.cayne@nasdaq.com

Telephone * (301) 978-8493 Fax

Signature

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

Date 12/30/2021


(Title *)

By John 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.

 DN:
email=john.zecca@nasdaq.com
Date: 2021.12.30 16:37:09
-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-2021-107 19b-4.doc

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

SR-NASDAQ-2021-107 Exhibit 1.doc

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

Add Remove View

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

Add Remove View

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

Add Remove View

SR-NASDAQ-2021-107 Exhibit 5.doc

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

Add Remove View

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 proposed rule change to modify certain exchange traded product listing fees. While changes proposed herein are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2022.

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 (the “Board”) on November 5, 2020. 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.

Questions and comments on the proposed rule change may be directed to:

Jonathan Cayne
Principal Associate General Counsel
Nasdaq, Inc.
301 978 8493

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The purpose of the proposed rule change is to modify certain of the Exchange's listing fees for exchange traded products ("ETPs") covered by Listing Rules 5930 and 5940, as well as to modify the Preamble to Company Listing Fees in Listing Rule 5901.

Currently, Listing Rule 5930 addresses listing fees for Linked Securities, SEEDS, and Other Securities. The proposed rule change relocates the references to the fees for Linked Securities from Listing Rule 5930 (Linked Securities, SEEDS, and Other Securities) to Listing Rule 5940 (Exchange Traded Products) such that Linked Securities will no longer be subject to the fees in Listing Rule 5930 and will instead be subject to the fees in Listing Rule 5940. The modified fees for Linked Securities will mirror the fees for many of the ETPs that are covered by Listing Rule 5940, which are detailed herein. For consistency and clarification, all references to Linked Securities and related Rule 5710 cites are also being deleted from the Preamble to Company Listing Fees in Listing Rule 5901. Also, a clarification is being made in the Preamble of changing the term "Exchange Listed Products" to "Exchange Traded Products" for consistency and clarification. Additionally, a typographical error in the heading of Listing Rule 5930(b) is proposed to be corrected by changing "Lisitng" to "Listing" for clarification.

The introduction to Listing Rule 5940 is being expanded for the sake of clarification to say that the securities covered by this rule includes not only Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, and NextShares, but also includes 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 Shares³ and Linked Securities.⁴

The Entry Fee under Listing Rule 5940(a)(1) is being modified to include all of the securities listed above,⁵ with the exception of NextShares (which are subject to the Entry Fee in Listing Rule 5940(a)(2)) and to eliminate the listing fee of \$5,000, which currently includes a \$1,000 non-refundable application fee. Both the elimination of the listing and application fees reflect that the market for listing ETPs is extremely competitive and ETPs may freely choose alternative listing venues. The Exchange has determined that these proposed fee changes, coupled with the fee changes discussed below, will positively impact the competition in the ETP listing space.

The All-Inclusive Annual Listing Fee under Listing Rule 5940(b) is being modified. First, the list of securities in Listing Rule 5940(b)(1) will be expanded to not only include, in addition to any other security under the Rule 5700 Series where no other fee schedule is specifically applicable listed on The Nasdaq Global Market, Portfolio Depository Receipts, Index Fund Shares, and Managed Fund Shares, but also Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares,

³ Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, and Managed Trust Shares are already subject to the fees in Listing Rule 5940(a)(1) and this change is simply being made to increase the clarity of the rule.

⁴ Per existing Listing Rule 5940 the fees in Listing Rule 5940 will also apply to securities listed under the Rule 5700 Series where no other fee schedule is specifically applicable and that provision of the rule is not being modified.

⁵ This includes securities listed under the Rule 5700 Series where no other fee schedule is specifically applicable.

Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Shares⁶ and Linked Securities.

Second, the current fee schedule that is calculated on total shares outstanding that ranges from up to 1 million shares to 250+ million shares with fees that range from \$6,000 to \$50,000 is being replaced by a single fee of \$4,000 per product.⁷ Nasdaq is simplifying the fee structure (and related rule language) of the All-Inclusive Annual Listing Fee under Listing Rule 5940(b) to create a single fee that the Exchange believes is more reasonable and equitable because the proposed per product fee structure will be the same for all products regardless of the product's total shares outstanding. Assessing the fee on a per product basis rather than on total shares outstanding, the Exchange believes more accurately reflects the level of support required. The level of support the Exchange provides does not increase significantly as the ETP's shares outstanding grows. It is more closely correlated to the number of ETPs listed and thus warrants a separate fee per product. This means that an issuer with more ETPs listed on Nasdaq will have a higher total annual listing fee under the proposed changes than an issuer with fewer ETPs listed on Nasdaq even if the issuer with fewer ETPs has more total shares outstanding.

Listing Rule 5940(b)(3) is being eliminated because the new fee structure of Listing Rule 5940(b) renders it irrelevant.

Listing Rule 5940(b)(5) is being renumbered as Listing Rule 5940(b)(8) and will

⁶ Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, and Managed Trust Shares are already subject to the fees in Listing Rule 5940(b)(1) and this change is simply being made to increase the clarity of the rule.

⁷ For the avoidance of doubt, in this filing \$4,000 per product means \$4,000 for each symbol listed on the Exchange.

otherwise remain unchanged and still say that except as otherwise set forth in Rule 5940(b), the All-Inclusive Annual Listing Fee described will be assessed as described in Rule 5910(b)(3). Proposed Listing Rule 5940(b)(5) says that in the first calendar year of listing, a product's All-Inclusive Annual Listing Fee will be prorated based on the number of months listed. Proposed Listing Rule 5940(b)(5) and Rule 5910(b)(3)(A), both say that in the first calendar year of listing, a product's or Company's All-Inclusive Annual Listing Fee, respectively, will be prorated based on the number of months listed. The difference, as discussed above, is that proposed Listing Rule 5940(b)(5) will look to prorate the single fee of \$4,000 per product while current Rule 5910(b)(3)(A) is based on the total shares outstanding as of the date of the Company's listing. This proposed change is made for clarity and consistency with the All-Inclusive Annual Listing Fee change described above.

Proposed Listing Rule 5940(b)(6) is being added to modify how listing ETP transfers from another national securities exchange to Nasdaq will be handled regarding the All-Inclusive Annual Listing Fee. Current Listing Rule 5940(b)(5) says that except as otherwise set forth in Rule 5940(b), the All-Inclusive Annual Listing Fee described will be assessed as described in Rule 5910(b)(3). Proposed Listing Rule 5940(b)(6) says that for the year in which a product listing transfers to Nasdaq, as well as for the first full calendar year of its listing, a product will not be charged the All-Inclusive Annual Listing Fee. Currently, for the year in which a Company transfers its listing to Nasdaq, it will not be charged the All-Inclusive Annual Listing Fee.⁸ Nasdaq believes that modifying the fee waiver to extend the first full calendar year following a product's listing will further

⁸ See IM-5900-4.

incentivize issuers to transfer ETPs to Nasdaq and, thereby, promote greater competition among ETP listing exchanges, which will be to the benefit of issuers, ETPs, and ETP investors.

Proposed Listing Rule 5940(b)(7) is being added to say that 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. Currently Nasdaq does not provide for such liquidation refunds. The Exchange is proposing this change as another way to make its fee schedule more competitive with the other exchanges, who also provide for refunds on a prorated basis.⁹

As described below, Nasdaq proposes to make the aforementioned fee changes to better reflect the Exchange's costs related to listing ETPs and would promote competition for ETP listings.

While these changes are effective upon filing, Nasdaq has designated the proposed amendments to be operative on January 1, 2022.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹¹

⁹ See e.g., NYSE Arca Equities: Listing Fees as of June 30, 2021, footnote 8 (“The Annual Fees applicable to Exchange Traded Products that have liquidated and as a result are delisted from the Exchange will be prorated for the portion of the calendar year that such issue was listed on the Exchange, based on days listed that calendar year, and refunded.”).

https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Listing_Fee_Schedule.pdf

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4) and (5).

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.

Nasdaq believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Listing Rules 5901, 5930 and 5940 to modify the listing fees for Linked Securities, to eliminate the Entry and Application Fees for certain ETPs, as well as to modify the All-Inclusive Annual Listing Fee for certain ETPs.

Specifically, the Exchange believes that modifying the fees and relocating references to Linked Securities from Listing Rule 5930 to Listing Rule 5940 is not unfairly discriminatory and represents an equitable allocation of reasonable fees since it aligns the fees for Linked Securities with the proposed fees for a broad range of ETPs discussed above, which the Exchange believes are more similar to Linked Securities than its existing location within Listing Rule 5930 that includes SEEDS and Other Securities. This also includes the proposed changes to the Preamble to Company Listing Fees in Listing Rule 5901 and references to Linked Securities and related Rule 5710 cites throughout Listing Rule 5930, as well as a clarification being made in the Preamble of changing the term “Exchange Listed Products” to “Exchange Traded Products” for consistency and clarification and to the benefit of market participants. Additionally, a typographical error in the heading of Listing Rule 5930(b) is proposed to be corrected by changing “Lisitng” to “Listing” for clarification and to the benefit of market participants.

Nasdaq believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Listing Rule 5940 to eliminate the Entry and Application Fees for the specified ETPs, as well as to modify the All-Inclusive Annual

Listing Fee for the specified ETPs. Nasdaq believes these changes promote competition for the listing of ETPs. Additionally, Nasdaq also believes these changes are not unfairly discriminatory and represent an equitable allocation of reasonable fees because following the adoption of SEC Rule 6c-11¹² the majority of ETPs are now listed under the generic listing standards of Nasdaq Rule 5704 (Exchange Traded Fund Shares) and thus no longer require as much in the way of both legal and business resources during the initial application process. Moreover, the Exchange believes that the proposed \$4,000 flat fee per product rather than the current fee based on the total shares outstanding, more accurately reflects and is more closely correlated to the level of Exchange support required, and that the level of support Nasdaq provides does not increase significantly as the ETP's shares outstanding grows. This means that an issuer with more ETPs listed on Nasdaq will have a higher total annual listing fee under the proposed changes than an issuer with fewer ETPs listed on Nasdaq even if the issuer with fewer ETPs has more total shares outstanding.

Specifically, the Exchange believes that amending the All-Inclusive Annual Listing Fee under Listing Rule 5940(b)(1) (and related rule language) from the current fee schedule that is calculated on total shares outstanding that ranges from up to 1 million shares to 250+ million shares with fees that range from \$6,000 to \$50,000 to being replaced by a single fee of \$4,000 per product is not unfairly discriminatory and represents an equitable allocation of reasonable fees because it simplifies the fee schedule and promotes greater competition with the other exchange listing venues. Also, a single fee per product creates a fee schedule that is more reasonable and equitable for products

¹² See 17 CFR 270.6c-11

and issuers of all sizes for these ETPs with issuers gaining certainty as the number of their ETPs grow. The total annual listing fee for an issuer increases as the number of ETPs that an issuer has on Nasdaq grows, and the necessary support for the additional listings increases as well. In accordance with these proposed changes, Listing Rule 5940(b)(3) will be eliminated because the new fee structure of the rule renders it irrelevant and unnecessary, and its elimination will be to the benefit of market participants.

The Exchange also believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend the introduction to Listing Rule 5940 to say that the securities covered by this rule includes not only Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, and NextShares, but also includes Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units and Managed Trust Shares¹³ because it clarifies that these additional ETPs are already subject to the fees in this rule and that this change is simply being made to increase the clarity of the rule.

Additionally, Nasdaq believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Listing Rule 5940(a)(1) and (b)(1) to include Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, and Managed Trust Shares because it clarifies that these additional

¹³ See supra note 4.

ETPs are already subject to the fees in Listing Rule 5940(a)(1) and (b)(1) and that this change is simply being made to increase the clarity of the rule.

The Exchange also believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to add proposed Listing Rule 5940(b)(5) to clarify that in the first calendar year of listing, a product's All-Inclusive Annual Listing Fee will be prorated based on the number of months listed. Current Listing Rule 5940(b)(5) says that except as otherwise set forth in Rule 5940(b), the All-Inclusive Annual Listing Fee described will be assessed as described in Rule 5910(b)(3) -- specifically it is covered by Rule 5910(b)(3)(A). Proposed Listing Rule 5940(b)(5) and Rule 5910(b)(3)(A) both say that in the first calendar year of listing, a product's or Company's All-Inclusive Annual Listing Fee, respectively, will be prorated based on the number of months listed. The difference, as discussed above, is that proposed Listing Rule 5940(b)(5) will look to prorate the single fee of \$4,000 per product while current Rule 5910(b)(3)(A) is based on the total shares outstanding as of the date of the Company's listing. As a result of the proposed changes, current Listing Rule 5940(b)(5) is being renumbered as Listing Rule 5940(b)(8).

Nasdaq believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to add proposed Listing Rule 5940(b)(6) to modify how listing transfers from another national securities exchange to Nasdaq will be handled regarding the All-Inclusive Annual Listing Fee. Currently, Listing Rule 5940(b)(5) says that except as otherwise set forth in Rule 5940(b), the All-Inclusive Annual Listing Fee described will be assessed as described in Rule 5910(b)(3). Proposed Listing Rule 5940(b)(6) says that for the year in which a product listing transfers to Nasdaq, as well as

for the first full calendar year of its listing, a product will not be charged the All-Inclusive Annual Listing Fee. Nasdaq believes this proposed rule change is not unfairly discriminatory and represents an equitable allocation of reasonable fees and will further incentivize issuers to transfer ETPs to Nasdaq and promote greater competition among the ETP listing exchanges, which will be to the benefit of issuers, ETPs, and ETP investors.

Additionally, Nasdaq believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to add proposed Listing Rule 5940(b)(7) to provide that 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. Currently the Exchange does not provide for such liquidation refunds. The Exchange is proposing this change as another way to make its fee schedule more competitive with the other exchanges, who also provide for refunds on a prorated basis.¹⁴

Finally, Nasdaq notes that it operates in a highly competitive market in which market participants can readily switch exchanges if they deem the listing fees excessive. In such an environment, Nasdaq must continually review its fees to assure that they remain competitive.

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, as amended. The market for listing ETPs is extremely competitive and ETPs may freely choose alternative listing venues. Nasdaq must continually review its fees to

¹⁴ See supra footnote 9.

assure that they remain competitive. Also, a single \$4,000 fee per product creates a fee schedule that is more reasonable and equitable for products and issuers of all sizes for these ETPs with issuers gaining certainty as to listing fees as the number of their ETPs grow. For these reasons, Nasdaq does not believe that the proposed rule change will result in any burden on competition for ETP listings.

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,¹⁵ 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 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.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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. _____ ; File No. SR-NASDAQ-2021-107)

December __, 2021

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Certain Exchange Traded Product Listing Fees

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 December 30, 2021, 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 modify certain exchange traded product listing fees. While changes proposed herein are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2022.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

In its filing with the Commission, 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 modify certain of the Exchange's listing fees for exchange traded products ("ETPs") covered by Listing Rules 5930 and 5940, as well as to modify the Preamble to Company Listing Fees in Listing Rule 5901.

Currently, Listing Rule 5930 addresses listing fees for Linked Securities, SEEDS, and Other Securities. The proposed rule change relocates the references to the fees for Linked Securities from Listing Rule 5930 (Linked Securities, SEEDS, and Other Securities) to Listing Rule 5940 (Exchange Traded Products) such that Linked Securities will no longer be subject to the fees in Listing Rule 5930 and will instead be subject to the fees in Listing Rule 5940. The modified fees for Linked Securities will mirror the fees for many of the ETPs that are covered by Listing Rule 5940, which are detailed herein. For consistency and clarification, all references to Linked Securities and related Rule 5710 cites are also being deleted from the Preamble to Company Listing Fees in Listing Rule 5901. Also, a clarification is being made in the Preamble of changing the term "Exchange Listed Products" to "Exchange Traded Products" for consistency and

clarification. Additionally, a typographical error in the heading of Listing Rule 5930(b) is proposed to be corrected by changing “Lisitng” to “Listing” for clarification.

The introduction to Listing Rule 5940 is being expanded for the sake of clarification to say that the securities covered by this rule includes not only Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, and NextShares, but also includes 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 Shares³ and Linked Securities.⁴

The Entry Fee under Listing Rule 5940(a)(1) is being modified to include all of the securities listed above,⁵ with the exception of NextShares (which are subject to the Entry Fee in Listing Rule 5940(a)(2)) and to eliminate the listing fee of \$5,000, which currently includes a \$1,000 non-refundable application fee. Both the elimination of the listing and application fees reflect that the market for listing ETPs is extremely competitive and ETPs may freely choose alternative listing venues. The Exchange has determined that these proposed fee changes, coupled with the fee changes discussed below, will positively impact the competition in the ETP listing space.

³ Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, and Managed Trust Shares are already subject to the fees in Listing Rule 5940(a)(1) and this change is simply being made to increase the clarity of the rule.

⁴ Per existing Listing Rule 5940 the fees in Listing Rule 5940 will also apply to securities listed under the Rule 5700 Series where no other fee schedule is specifically applicable and that provision of the rule is not being modified.

⁵ This includes securities listed under the Rule 5700 Series where no other fee schedule is specifically applicable.

The All-Inclusive Annual Listing Fee under Listing Rule 5940(b) is being modified. First, the list of securities in Listing Rule 5940(b)(1) will be expanded to not only include, in addition to any other security under the Rule 5700 Series where no other fee schedule is specifically applicable listed on The Nasdaq Global Market, Portfolio Depository Receipts, Index Fund Shares, and Managed Fund Shares, but also 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 Shares⁶ and Linked Securities.

Second, the current fee schedule that is calculated on total shares outstanding that ranges from up to 1 million shares to 250+ million shares with fees that range from \$6,000 to \$50,000 is being replaced by a single fee of \$4,000 per product.⁷ Nasdaq is simplifying the fee structure (and related rule language) of the All-Inclusive Annual Listing Fee under Listing Rule 5940(b) to create a single fee that the Exchange believes is more reasonable and equitable because the proposed per product fee structure will be the same for all products regardless of the product's total shares outstanding. Assessing the fee on a per product basis rather than on total shares outstanding, the Exchange believes more accurately reflects the level of support required. The level of support the Exchange provides does not increase significantly as the ETP's shares outstanding grows. It is more closely correlated to the number of ETPs listed and thus warrants a separate fee

⁶ Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, and Managed Trust Shares are already subject to the fees in Listing Rule 5940(b)(1) and this change is simply being made to increase the clarity of the rule.

⁷ For the avoidance of doubt, in this filing \$4,000 per product means \$4,000 for each symbol listed on the Exchange.

per product. This means that an issuer with more ETPs listed on Nasdaq will have a higher total annual listing fee under the proposed changes than an issuer with fewer ETPs listed on Nasdaq even if the issuer with fewer ETPs has more total shares outstanding.

Listing Rule 5940(b)(3) is being eliminated because the new fee structure of Listing Rule 5940(b) renders it irrelevant.

Listing Rule 5940(b)(5) is being renumbered as Listing Rule 5940(b)(8) and will otherwise remain unchanged and still say that except as otherwise set forth in Rule 5940(b), the All-Inclusive Annual Listing Fee described will be assessed as described in Rule 5910(b)(3). Proposed Listing Rule 5940(b)(5) says that in the first calendar year of listing, a product's All-Inclusive Annual Listing Fee will be prorated based on the number of months listed. Proposed Listing Rule 5940(b)(5) and Rule 5910(b)(3)(A), both say that in the first calendar year of listing, a product's or Company's All-Inclusive Annual Listing Fee, respectively, will be prorated based on the number of months listed. The difference, as discussed above, is that proposed Listing Rule 5940(b)(5) will look to prorate the single fee of \$4,000 per product while current Rule 5910(b)(3)(A) is based on the total shares outstanding as of the date of the Company's listing. This proposed change is made for clarity and consistency with the All-Inclusive Annual Listing Fee change described above.

Proposed Listing Rule 5940(b)(6) is being added to modify how listing ETP transfers from another national securities exchange to Nasdaq will be handled regarding the All-Inclusive Annual Listing Fee. Current Listing Rule 5940(b)(5) says that except as otherwise set forth in Rule 5940(b), the All-Inclusive Annual Listing Fee described will be assessed as described in Rule 5910(b)(3). Proposed Listing Rule 5940(b)(6) says that

for the year in which a product listing transfers to Nasdaq, as well as for the first full calendar year of its listing, a product will not be charged the All-Inclusive Annual Listing Fee. Currently, for the year in which a Company transfers its listing to Nasdaq, it will not be charged the All-Inclusive Annual Listing Fee.⁸ Nasdaq believes that modifying the fee waiver to extend the first full calendar year following a product's listing will further incentivize issuers to transfer ETPs to Nasdaq and, thereby, promote greater competition among ETP listing exchanges, which will be to the benefit of issuers, ETPs, and ETP investors.

Proposed Listing Rule 5940(b)(7) is being added to say that 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. Currently Nasdaq does not provide for such liquidation refunds. The Exchange is proposing this change as another way to make its fee schedule more competitive with the other exchanges, who also provide for refunds on a prorated basis.⁹

As described below, Nasdaq proposes to make the aforementioned fee changes to better reflect the Exchange's costs related to listing ETPs and would promote competition for ETP listings.

While these changes are effective upon filing, Nasdaq has designated the

⁸ See IM-5900-4.

⁹ See e.g., NYSE Arca Equities: Listing Fees as of June 30, 2021, footnote 8 (“The Annual Fees applicable to Exchange Traded Products that have liquidated and as a result are delisted from the Exchange will be prorated for the portion of the calendar year that such issue was listed on the Exchange, based on days listed that calendar year, and refunded.”).
https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Listing_Fee_Schedule.pdf

proposed amendments to be operative on January 1, 2022.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹¹ 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.

Nasdaq believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Listing Rules 5901, 5930 and 5940 to modify the listing fees for Linked Securities, to eliminate the Entry and Application Fees for certain ETPs, as well as to modify the All-Inclusive Annual Listing Fee for certain ETPs.

Specifically, the Exchange believes that modifying the fees and relocating references to Linked Securities from Listing Rule 5930 to Listing Rule 5940 is not unfairly discriminatory and represents an equitable allocation of reasonable fees since it aligns the fees for Linked Securities with the proposed fees for a broad range of ETPs discussed above, which the Exchange believes are more similar to Linked Securities than its existing location within Listing Rule 5930 that includes SEEDS and Other Securities. This also includes the proposed changes to the Preamble to Company Listing Fees in Listing Rule 5901 and references to Linked Securities and related Rule 5710 cites throughout Listing Rule 5930, as well as a clarification being made in the Preamble of changing the term “Exchange Listed Products” to “Exchange Traded Products” for

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4) and (5).

consistency and clarification and to the benefit of market participants. Additionally, a typographical error in the heading of Listing Rule 5930(b) is proposed to be corrected by changing “Lisitng” to “Listing” for clarification and to the benefit of market participants.

Nasdaq believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Listing Rule 5940 to eliminate the Entry and Application Fees for the specified ETPs, as well as to modify the All-Inclusive Annual Listing Fee for the specified ETPs. Nasdaq believes these changes promote competition for the listing of ETPs. Additionally, Nasdaq also believes these changes are not unfairly discriminatory and represent an equitable allocation of reasonable fees because following the adoption of SEC Rule 6c-11¹² the majority of ETPs are now listed under the generic listing standards of Nasdaq Rule 5704 (Exchange Traded Fund Shares) and thus no longer require as much in the way of both legal and business resources during the initial application process. Moreover, the Exchange believes that the proposed \$4,000 flat fee per product rather than the current fee based on the total shares outstanding, more accurately reflects and is more closely correlated to the level of Exchange support required, and that the level of support Nasdaq provides does not increase significantly as the ETP’s shares outstanding grows. This means that an issuer with more ETPs listed on Nasdaq will have a higher total annual listing fee under the proposed changes than an issuer with fewer ETPs listed on Nasdaq even if the issuer with fewer ETPs has more total shares outstanding.

Specifically, the Exchange believes that amending the All-Inclusive Annual Listing Fee under Listing Rule 5940(b)(1) (and related rule language) from the current

¹² See 17 CFR 270.6c-11

fee schedule that is calculated on total shares outstanding that ranges from up to 1 million shares to 250+ million shares with fees that range from \$6,000 to \$50,000 to being replaced by a single fee of \$4,000 per product is not unfairly discriminatory and represents an equitable allocation of reasonable fees because it simplifies the fee schedule and promotes greater competition with the other exchange listing venues. Also, a single fee per product creates a fee schedule that is more reasonable and equitable for products and issuers of all sizes for these ETPs with issuers gaining certainty as the number of their ETPs grow. The total annual listing fee for an issuer increases as the number of ETPs that an issuer has on Nasdaq grows, and the necessary support for the additional listings increases as well. In accordance with these proposed changes, Listing Rule 5940(b)(3) will be eliminated because the new fee structure of the rule renders it irrelevant and unnecessary, and its elimination will be to the benefit of market participants.

The Exchange also believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend the introduction to Listing Rule 5940 to say that the securities covered by this rule includes not only Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, and NextShares, but also includes Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units and Managed Trust Shares¹³ because it clarifies that these additional ETPs are already subject to the fees in this rule and that this change is simply being made to increase the clarity of the rule.

¹³ See supra note 4.

Additionally, Nasdaq believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Listing Rule 5940(a)(1) and (b)(1) to include Exchange Traded Fund Shares, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, and Managed Trust Shares because it clarifies that these additional ETPs are already subject to the fees in Listing Rule 5940(a)(1) and (b)(1) and that this change is simply being made to increase the clarity of the rule.

The Exchange also believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to add proposed Listing Rule 5940(b)(5) to clarify that in the first calendar year of listing, a product's All-Inclusive Annual Listing Fee will be prorated based on the number of months listed. Current Listing Rule 5940(b)(5) says that except as otherwise set forth in Rule 5940(b), the All-Inclusive Annual Listing Fee described will be assessed as described in Rule 5910(b)(3) -- specifically it is covered by Rule 5910(b)(3)(A). Proposed Listing Rule 5940(b)(5) and Rule 5910(b)(3)(A) both say that in the first calendar year of listing, a product's or Company's All-Inclusive Annual Listing Fee, respectively, will be prorated based on the number of months listed. The difference, as discussed above, is that proposed Listing Rule 5940(b)(5) will look to prorate the single fee of \$4,000 per product while current Rule 5910(b)(3)(A) is based on the total shares outstanding as of the date of the Company's listing. As a result of the proposed changes, current Listing Rule 5940(b)(5) is being renumbered as Listing Rule 5940(b)(8).

Nasdaq believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to add proposed Listing Rule 5940(b)(6) to modify how

listing transfers from another national securities exchange to Nasdaq will be handled regarding the All-Inclusive Annual Listing Fee. Currently, Listing Rule 5940(b)(5) says that except as otherwise set forth in Rule 5940(b), the All-Inclusive Annual Listing Fee described will be assessed as described in Rule 5910(b)(3). Proposed Listing Rule 5940(b)(6) says that for the year in which a product listing transfers to Nasdaq, as well as for the first full calendar year of its listing, a product will not be charged the All-Inclusive Annual Listing Fee. Nasdaq believes this proposed rule change is not unfairly discriminatory and represents an equitable allocation of reasonable fees and will further incentivize issuers to transfer ETPs to Nasdaq and promote greater competition among the ETP listing exchanges, which will be to the benefit of issuers, ETPs, and ETP investors.

Additionally, Nasdaq believes it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to add proposed Listing Rule 5940(b)(7) to provide that 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. Currently the Exchange does not provide for such liquidation refunds. The Exchange is proposing this change as another way to make its fee schedule more competitive with the other exchanges, who also provide for refunds on a prorated basis.¹⁴

Finally, Nasdaq notes that it operates in a highly competitive market in which market participants can readily switch exchanges if they deem the listing fees excessive. In such an environment, Nasdaq must continually review its fees to assure that they remain competitive.

¹⁴ See supra footnote 9.

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, as amended. The market for listing ETPs is extremely competitive and ETPs may freely choose alternative listing venues. Nasdaq must continually review its fees to assure that they remain competitive. Also, a single \$4,000 fee per product creates a fee schedule that is more reasonable and equitable for products and issuers of all sizes for these ETPs with issuers gaining certainty as to listing fees as the number of their ETPs grow. For these reasons, Nasdaq does not believe that the proposed rule change will result in any burden on competition for ETP listings.

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.¹⁵

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.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2021-107 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-2021-107. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2021-107 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

J. Matthew DeLesDernier
Assistant Secretary

¹⁶ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

The Nasdaq Stock Market Rules

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5901. Preamble to Company Listing Fees

This section sets forth the required fees for Companies both seeking listing and currently listed on Nasdaq. Rule 5930 describes fees for [Linked Securities,] SEEDS[,] and Other Securities qualified for listing under Rule [5710,]5715 or 5730. Rule 5940 describes fees for other Exchange [Listed]Traded Products. The fees for all other Companies are described in Rule 5910 (for the Global and Global Select Markets) and Rule 5920 (for the Capital Market). With certain exceptions, a Company that submits an application to list any class of its securities must pay a non-refundable application fee, and an entry fee as described in Rule 5910(a), which is based on the number of shares being listed. Listed Companies must also pay an All-Inclusive Annual Listing Fee.

* * * * *

5930. [Linked Securities,]SEEDS[,] and Other Securities**(a) Application Fee and Entry Fee**

(1) When a Company submits an application to list any [Linked Securities,]SEEDS or Other Securities on the Nasdaq Global Market qualified for listing under Rule [5710,]5715 or 5730, it shall pay a non-refundable application fee of \$1,000.

(2) When a Company submits an application to list any [Linked Securities,]SEEDS or Other Securities on the Nasdaq Global Market qualified for listing under Rule [5710,]5715 or 5730, it shall pay an entry fee calculated based on total shares outstanding according to the following schedule:

Up to 1 million shares \$5,000

1+ to 2 million shares \$10,000

2+ to 3 million shares \$15,000

3+ to 4 million shares \$17,500

4+ to 5 million shares \$20,000

5+ to 6 million shares \$22,500

6+ to 7 million shares \$25,000

7+ to 8 million shares \$27,500

8+ to 9 million shares \$30,000

9+ to 10 million shares \$32,500

10+ to 15 million shares \$37,500

Over 15 million shares \$45,000

The applicable entry fee shall be reduced by any entry fees paid previously in connection with the initial listing during the current calendar year of any of the Company's [Linked Securities,]SEEDS and Other Securities on the Nasdaq Global Market.

(3) For the sole purpose of determining the entry fee, total shares outstanding means the aggregate of all classes of [Linked Securities,]SEEDS and Other Securities of the Company to be listed on the Nasdaq Global Market in the current calendar year as shown in the Company's most recent periodic report or in more recent information held by Nasdaq or, in the case of new issues, as shown in the offering circular, required to be filed with the Company's appropriate regulatory authority.

(4) – (6) No change.

(b) All-Inclusive Annual [Lisitng]Listing Fee

(1) The issuer of [Linked Securities,]SEEDS or Other Securities qualified under Rule [5710,]5715 or 5730 for listing on the Nasdaq Global Market shall pay to Nasdaq an All-Inclusive Annual Listing Fee applicable to the issuer of [Linked Securities,]SEEDS or Other Securities qualified under Rule [5710,]5715 or 5730 for listing on the Nasdaq Global Market calculated based on total shares outstanding according to the following schedule:

Up to 5 million shares \$15,000

5+ to 10 million shares \$17,500

10+ to 25 million shares \$20,000

25+ to 50 million shares \$22,500

Over 50 million shares \$30,000

(2) The Nasdaq Board of Directors or its designee may, in its discretion, defer or waive all or any part of the All-Inclusive Annual Listing Fee prescribed herein.

(3) For the sole purpose of determining the annual fee, total shares outstanding means the aggregate of all classes of [Linked Securities,]SEEDS and Other Securities of the Company listed on the Nasdaq Global Market, as shown in the Company's most recent periodic report required to be filed with the Company's appropriate regulatory authority or in more recent information held by Nasdaq.

(4) The All-Inclusive Annual Listing Fee described in this section will be assessed as described in Rule 5910(b)(3).

* * * * *

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, 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, 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, [it shall pay to Nasdaq a listing fee of \$5,000 (which shall include a \$1,000 non-refundable application fee)] there shall be no initial listing fee or application fee.

(2) - (5) No change.

(b) All-Inclusive Annual Listing Fee

(1) The issuer of a series of 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, 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 [applicable to the issuer of]a series of 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, or Linked Securities or other security listed under the Rule 5700 Series where no other fee schedule is specifically applicable, [, calculated on total shares outstanding according to the following schedule:

Up to 1 million shares \$6,000

1+ to 5 million shares \$7,500

5+ to 10 million shares \$10,000

10+ to 25 million shares \$15,000

25+ to 50 million shares \$20,000

50+ to 75 million shares \$25,000

75+ to 100 million shares \$30,000

100+ to 150 million shares \$35,000

150+ to 250 million shares \$40,000

250+ million shares \$50,000]

(2) No change.

(3) [For the purposes of Rule 5940(b)(1), total shares outstanding means the aggregate number of shares, issued by one or more issuers with the same sponsor, Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares or other security listed under the Rule 5700 Series where no other fee schedule is specifically applicable, listed on The Nasdaq Global Market as shown in the issuer's most recent periodic report required to be filed with the issuer's appropriate regulatory authority or in more recent information held by Nasdaq. For purposes of this rule, "sponsor" is defined as an investment adviser (or investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended) to one or more issuers.]Reserved.

(4) No change.

(5) In the first calendar year of listing, a product's All-Inclusive Annual Listing Fee will be prorated based on the number of months listed.

(6) For the year in which a product listing transfers to Nasdaq, as well as for the first full calendar year of its listing, a product will not be charged the All-Inclusive Annual Listing Fee.

(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.

(8) Except as otherwise set forth in Rule 5940(b), the All-Inclusive Annual Listing Fee described in this section will be assessed as described in Rule 5910(b)(3).

* * * * *