Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2014 - * 029

Amendment No. (req. for Amendments *)

Filing by   NASDAQ Stock Market

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

Initial * ☑	Amendment * ☐	Withdrawal ☐

Section 19(b)(2) * ☐	Section 19(b)(3)(A) * ☑	Section 19(b)(3)(B) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires * _____

Rule

- ☐ 19b-4(f)(1)
- ☑ 19b-4(f)(2)
- ☐ 19b-4(f)(3)
- ☐ 19b-4(f)(4)
- ☐ 19b-4(f)(5)
- ☐ 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 Relating to Managed Data Solution for Non-Display Usage.

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 * Jurij   Last Name * Trypupenko

Title * Associate General Counsel

E-mail * jurij.trypupenko@nasdaqomx.com

Telephone * (301) 978-8132   Fax (301) 978-8472

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 03/21/2014

By   Edward S. Knight

(Name *)

Executive Vice President and General Counsel

Persona Not Validated - 1383935917270,

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

[Add] [Remove] [View]

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]

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 Advance Notice by Clearing Agencies *

[Add] [Remove] [View]

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, security-based swap submission, or advance notice 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]

Exhibit Sent As Paper Document
☐

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 3 - Form, Report, or Questionnaire

[Add] [Remove] [View]

Exhibit Sent As Paper Document
☐

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 4 - Marked Copies

[Add] [Remove] [View]

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]

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) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange

Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] The NASDAQ Stock Market LLC

("NASDAQ" or "Exchange") is filing with the Securities and Exchange Commission

("Commission") a proposed rule change to modify Chapter XV (Options Pricing) by

adding proposed new Section 11 (Managed Data Solutions) to the NASDAQ Options

Market, LLC ("NOM") rule book to establish Managed Data Solution fees for Non-

Display Usage.

        While the changes proposed herein are effective upon filing, the Exchange has

designated that the amendments be operative on April 1, 2014.

        A notice of the proposed rule change for publication in the Federal Register is

attached hereto as Exhibit 1. The text of the proposed rule change is attached hereto

as Exhibit 5.[3]

        (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 of the Exchange on July 17,

2013. Exchange staff will advise the Board of Directors of any action taken pursuant to

delegated authority. No other action by the Exchange is necessary for the filing of the

---

[1]   15 U.S.C. 78s(b)(1).

[2]   17 CFR 240.19b-4.

[3]   Changes are marked to the rule text that appears in the electronic Nasdaq Manual
        found at http://nasdaqomx.cchwallstreet.com.

rule change.

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

Trypupenko, Associate General Counsel, The NASDAQ OMX Group, Inc., at (301) 978-

8132.

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 Chapter XV (Options

Pricing) by adding proposed new Section 11 in the NOM rule book to establish Managed

Data Solution fees. The Exchange is proposing to create a new data distribution model (a

Managed Data Solution for Non-Display Usage) to further the distribution of Best of

NASDAQ Options and Itch to Trade Options ("BONO and ITTO"), (together "NOM

data").

The proposed Managed Data Solution for Non-Display Usage is similar to data

distribution models currently in use and aligns the Exchange with other markets.[4]

The Managed Data Solution proposal offers a delivery method to firms seeking

simplified market data administration. The Managed Data Solution for Non-Display

---

[4]   See Securities Exchange Act Release Nos. 70748 (October 23, 2013), 78 FR
        64569 (October 29, 2013)(SR-Phlx-2013-105)(notice of filing and immediate
        effectiveness of proposed rule change to establish non-display Managed Data
        Solution for Phlx); 70269 (August 27, 2013), 78 FR 54336 (September 3,
        2013)(SR-NASDAQ-2013-106)(notice of filing and immediate effectiveness of
        proposed rule change to establish non-display Managed Data Solution for
        NASDAQ); and 69182 (March 19, 2013), 78 FR 18378 (March 26, 2013)(SR-
        Phlx-2013-28)(notice of filing and immediate effectiveness of proposed rule
        change to establish non-display Managed Data Solution for Phlx equities market
        PSX). See also Securities Exchange Act Release No. 69041 (March 5, 2013), 78
        FR 15791 (March 12, 2013)(SR-BX-2013-018)(notice of filing and immediate
        effectiveness of proposed rule change to establish Managed Data Solution for
        BX).

Usage may be offered by Distributors[5] externally distributing data to clients and/or client

organizations that are using the NOM data internally for Non-Display Usage. This new

pricing and administrative option is in response to industry demand, as well as due to

changes in the technology used to distribute market data. As such, rather than substantive

changes the proposal reflects current data distribution practices in the industry.

Distributors offering Managed Data Solutions for Non-Display Usage continue to be fee

liable for the applicable distributor, annual administrative and other applicable fees for

the receipt and distribution of NOM data.

This Managed Data Solution for Non-Display Usage is a delivery option that will

assess a new, innovative fee schedule to Distributors of NOM data that provide data feed

solutions such as an Application Programming Interface (API) or similar automated

delivery solutions to Recipients for Non-Display Usage with only limited entitlement

controls (*e.g.*, usernames and/or passwords) ("Managed Data Recipients"). However, the

Distributor must first agree to reformat, redisplay and/or alter the NOM data prior to

retransmission, but not to affect the integrity of the NOM data and not to render it

inaccurate, unfair, uninformative, fictitious, misleading, or discriminatory. A Managed

Data Solution for Non-Display Usage is any retransmission data product containing

NOM data offered by a Distributor where the Distributor manages and monitors, but does

not control, the information and the Recipient of a Managed Data Solution may use the

information for internal Non-Display purposes only and may not distribute the

information outside of their organization. However, the Distributor does maintain

contracts with the Managed Data Recipients and is liable for any unauthorized use by the

---

5   "Distributor" shall mean the same as in NOM Chapter XV, Section 4(b).
          Proposed Chapter XV, Section 11(b).

Managed Data Recipients under a Managed Data Solution.

Currently, the Exchange does not distinguish between Managed Data Solution

Recipients and a recipient of an uncontrolled data product. Some Distributors believe

that the Managed Data Solution for Non-Display Usage is a viable alternative to an

uncontrolled data product. Some Distributors have even delayed deploying new NOM

data offerings, pending the initiation of Managed Data Solutions for Non-Display Usage.

Thus, offering a Managed Data Solution fee schedule would not only result in the

Exchange offering lower fees for existing Managed Data Recipients utilizing a Managed

Data Solution, but will allow new Distributors to deliver Managed Data Solutions to new

clients, thereby increasing transparency of the market.

The Exchange proposes to establish a monthly Managed Data Solution

Administration fee and a monthly Subscriber[6] fee for Distributors and Subscribers that

adopt the Managed Data Solution for Non-Display Usage.[7] The proposed fees for

Managed Data Solutions products for Non-Display Usage -- ITTO would be $500/mo per

Distributor and $125/mo per Subscriber; and for Non-Display Usage -- BONO would be

$500/mo per Distributor and $125/mo per Subscriber.[8] The Exchange proposes to

---

[6]   "Subscriber" shall mean a device or computer terminal or an automated service
        which is entitled to receive Information. Proposed Chapter XV Section 11(c).

[7]   Without a Managed Data Solution as proposed herein, the current fee for internal
        distribution that is not a Managed Data Solution but rather an uncontrolled NOM
        data product with a distributor fee of $1,500 per month would apply (along with a
        $5 or $10 professional subscriber fee). Per the proposal for the Managed Data
        Solution, on the other hand, the Managed Data Recipient fee for Non-Display
        internal use of NOM Orders managed data would be $125 per Subscriber for each
        of ITTO and BONO, thereby providing a reduced cost option where the data is for
        Non-Display internal use only.

[8]   The proposed monthly fee would be in addition to the monthly Market Data
        Distributor fee of $2,000 (for external usage) currently set forth in the Options

establish a Managed Data Solution for Non-Display Usage only, as is done on other

markets. The Exchange believes that the proposal is in line with current market practice.[9]

       b.   Statutory Basis

The Exchange believes that the proposed rule change is consistent with the

provisions of Section 6 of the Act,[10] in general, and with Section 6(b)(4) of the Act,[11] in

particular, in that it provides an equitable allocation of reasonable fees among

Subscribers and Recipients of NOM data. In adopting Regulation NMS, the Commission

granted self-regulatory organizations ("SROs") and broker-dealers ("BDs") increased

authority and flexibility to offer new and unique market data to the public. It was

believed that this authority would expand the amount of data available to consumers, and

also spur innovation and competition for the provision of market data.

The Commission concluded that Regulation NMS—by lessening the regulation of

the market in proprietary data—would itself further the Act's goals of facilitating

efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data
> beyond the prices, sizes, market center identifications of the NBBO and
> consolidated last sale information are not required to receive (and pay for)
> such data. The Commission also believes that efficiency is promoted
> when broker-dealers may choose to receive (and pay for) additional

---

       Schedule in NOM Chapter XV for recipients of BONO and ITTO options data
       feeds.

[9]   The Exchange believes that most firms, as an example, currently use BONO and
      ITTO options data feeds in non-display format.

[10]   15 U.S.C. 78f.

[11]   15 U.S.C. 78f(b)(4).

market data based on their own internal analysis of the need for such data.[12]

By removing "unnecessary regulatory restrictions" on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to BDs at all, it follows that the price at which such data is sold should be set by the market as well.

The decision of the United States Court of Appeals for the District of Columbia Circuit in NetCoaliton v. SEC, 615 F.3d 525 (D.C. Cir. 2010) ("NetCoalition I"), upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. "In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' NetCoaltion I, at 535 (quoting H.R. Rep. No. 94–229, at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 321, 323). The court agreed with the Commission's conclusion that "Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.'"[13]

The court in NetCoalition I, while upholding the Commission's conclusion that competitive forces may be relied upon to establish the fairness of prices, nevertheless

---

[12]   Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[13]   NetCoalition I, at 535.

concluded that the record in that case did not adequately support the Commission's

conclusions as to the competitive nature of the market for NYSE Arca's data product at

issue in that case. As explained below in the Exchange's Statement on Burden on

Competition, however, the Exchange believes that there is substantial evidence of

competition in the marketplace for data that was not in the record in the NetCoalition I

case, and that the Commission is entitled to rely upon such evidence in concluding that

the fees established in this filing are the product of competition, and therefore in

accordance with the relevant statutory standards.[14] Moreover, the Exchange further notes

that the product at issue in this filing – NOM Managed Data Solutions for Non-Display

Usage fees – is quite different from the NYSE Arca depth-of-book data product at issue

in NetCoalition I. Accordingly, any findings of the court with respect to that product

may not be relevant to the product at issue in this filing.

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

The Exchange does not believe that the proposed rule change will result in any

burden on competition that is not necessary or appropriate in furtherance of the purposes

of the Act, as amended. The Exchange's ability to price its Managed Data Solution

products for Non-Display Usage is constrained by (1) competition between exchanges

and other trading platforms that compete with each other in a variety of dimensions; (2)

the existence of inexpensive real-time consolidated data and market-specific data and free

delayed consolidated data; and (3) the inherent contestability of the market for this data.

---

[14]   It should also be noted that Section 916 of the Dodd-Frank Wall Street Reform
and Consumer Protection Act of 2010 ("Dodd-Frank Act") has amended
paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make it clear
that all exchange fees, including fees for market data, may be filed by exchanges
on an immediately effective basis.

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, the operation of the exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution

industries such as software, where developing new software typically requires a large

initial investment (and continuing large investments to upgrade the software), but once

the software is developed, the incremental cost of providing that software to an additional

user is typically small, or even zero (e.g., if the software can be downloaded over the

internet after being purchased).[15] In the Exchange's case, it is costly to build and

maintain a trading platform, but the incremental cost of trading each additional share on

an existing platform, or distributing an additional instance of data, is very low. Market

information and executions are each produced jointly (in the sense that the activities of

trading and placing orders are the source of the information that is distributed) and are

each subject to significant scale economies. In such cases, marginal cost pricing is not

feasible because if all sales were priced at the margin, the Exchange would be unable to

defray its platform costs of providing the joint products.

An exchange's BD customers view the costs of transaction executions and of data

as a unified cost of doing business with the exchange. A BD will direct orders to a

particular exchange only if the expected revenues from executing trades on the exchange

exceed net transaction execution costs and the cost of data that the BD chooses to buy to

support its trading decisions (or those of its customers). The choice of data products is, in

turn, a product of the value of the products in making profitable trading decisions. If the

cost of the product exceeds its expected value, the BD will choose not to buy it.

Moreover, as a BD chooses to direct fewer orders to a particular exchange, the value of

the product to that BD decreases, for two reasons. First, the product will contain less

---

[15]   See William J. Baumol and Daniel G. Swanson, "The New Economy and
          Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of
          Market Power," Antitrust Law Journal, Vol. 70, No. 3 (2003).

information, because executions of the BD's trading activity will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that BD because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the BD is directing orders will become correspondingly more valuable.

Similarly, in the case of products such as this that are distributed through market data vendors, the vendors provide price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract "eyeballs" that contribute to their advertising revenue. Retail BDs, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: They can simply refuse to purchase any proprietary data product that fails to provide sufficient value. The Exchange and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully. Moreover, the Exchange believes that products such as this can enhance order flow to the Exchange, thereby encouraging wider participation in the market by investors with access to the internet or television. Conversely, the value of such products to distributors and investors decreases if order flow falls, because the products contain less content.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platform may choose to pay rebates to attract orders, charge relatively low prices for market information (or provide information free of charge) and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower liquidity rebates to attract orders, setting relatively low prices for accessing posted liquidity and setting relatively high prices for market information. Still others may provide most data free of charge and rely exclusively on transaction fees to recover their costs. Finally, some platforms may incentivize use by providing opportunities for equity ownership, which may allow them to charge lower direct fees for executions and data.

In this environment, there is no economic basis for regulating maximum prices for

one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an "excessive" price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an increase in the price of data will ultimately have to be accompanied by a decrease in the cost of executions, or the volume of both data and executions will fall.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including thirteen SRO markets, as well as internalizing BDs and various forms of alternative trading systems ("ATSs"), including dark pools and electronic communication networks ("ECNs"). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities ("TRFs") compete to attract internalized transaction reports. It is common for BDs to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products.

The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including The NASDAQ Stock Market LLC, New York Stock Exchange, NYSE MKT LLC, NYSE Arca, Inc., BATS Exchange, Inc., and Direct Edge.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple BD production of proprietary data products. The potential sources of proprietary products are virtually limitless.

Market data vendors provide another form of price discipline for proprietary data products because they control the primary means of access to end Subscribers. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Thomson Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end Subscribers will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract "eyeballs" that contribute to their advertising revenue. Retail broker-dealers, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. The Exchange and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook,

Attain, TracECN, BATS Trading and Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While BDs have previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg, and Thomson Reuters.

Competition among platforms has driven the Exchange continually to improve its platform data offerings and to cater to customers' data needs. For example, the Exchange has developed and maintained multiple delivery mechanisms (e.g., IP, multi-cast) that enable customers to receive data in the form and manner they prefer and at the lowest cost to them. The Exchange has created products like Depth Data and Top of Market Data, because offering data in multiple formatting allows the Exchange to better fit customer needs. The Exchange offers data via multiple extranet providers, thereby helping to reduce network and total cost for its data products. The Exchange has developed an online administrative system to provide customers transparency into their data feed requests and streamline data usage reporting.

Despite these enhancements and a dramatic increase in message traffic, the Exchange's fees for market data have remained flat. In fact, as a percent of total Subscriber costs, Exchange data fees have fallen relative to other data usage costs -- including bandwidth, programming, and infrastructure -- that have risen. The same holds true for execution services; despite numerous enhancements to the Exchange's trading

platform, absolute and relative trading costs have declined. Platform competition has intensified as new entrants have emerged, constraining prices for both executions and for data.

The vigor of competition for proprietary information is significant and the Exchange believes that this proposal itself clearly evidences such competition. The Exchange is offering a new pricing model in order to keep pace with changes in the industry and evolving customer needs. It is entirely optional and is geared towards attracting new customers, as well as retaining existing customers.

The Exchange has witnessed competitors creating new products and innovative pricing in this space over the course of the past year. The Exchange continues to see firms challenge its pricing on the basis of the Exchange's explicit fees being higher than the zero-priced fees from other competitors such as BATS. In all cases, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with the Exchange or other exchanges. Of course, the explicit data fees are but one factor in a total platform analysis. Some competitors have lower transactions fees and higher data fees, and others are vice versa. The market for this proprietary information is highly competitive and continually evolves as products develop and change.

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

The Exchange does not consent at this time to an extension of the time period for

Commission action specified in Section 19(b)(2) of the Act.[16]

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,[17] the Exchange has designated this

proposal as establishing or changing a due, fee, or other charge imposed 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.

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

The proposed rule change is similar to recent filings establishing Managed Data

Solutions.[18]

---

[16]　　15 U.S.C. 78s(b)(2).

[17]　　15 U.S.C. 78s(b)(3)(A)(ii). The proposed filing does not result in the
　　　　dissemination of any new data elements not already disseminated via an approved
　　　　NOM product.

[18]　　See Securities Exchange Act Release Nos. 70748 (October 23, 2013), 78 FR
　　　　64569 (October 29, 2013)(SR-Phlx-2013-105)(notice of filing and immediate
　　　　effectiveness of proposed rule change to establish non-display Managed Data
　　　　Solution for Phlx); 70269 (August 27, 2013), 78 FR 54336 (September 3,
　　　　2013)(SR-NASDAQ-2013-106)(notice of filing and immediate effectiveness of
　　　　proposed rule change to establish non-display Managed Data Solution for
　　　　NASDAQ); and 69182 (March 19, 2013), 78 FR 18378 (March 26, 2013)(SR-
　　　　Phlx-2013-28)(notice of filing and immediate effectiveness of proposed rule
　　　　change to establish non-display Managed Data Solution for Phlx equities market
　　　　PSX). See also Securities Exchange Act Release No. 69041 (March 5, 2013), 78
　　　　FR 15791 (March 12, 2013)(SR-BX-2013-018)(notice of filing and immediate
　　　　effectiveness of proposed rule change to establish Managed Data Solution for
　　　　BX).

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.   Completed notice of proposed rule change for publication in the Federal

Register.

        5.   Text of Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No.   ; File No. SR-NASDAQ-2014-029)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and
Immediate Effectiveness of Proposed Rule Change Relating to Managed Data Solution
for Non-Display Usage

 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 March 21, 2014 The NASDAQ

Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange

Commission ("SEC" or "Commission") the proposed rule change to modify rules of the

NASDAQ Options Market, LLC ("NOM") as described in Items I, II, and III, below,

which Items have been prepared by NASDAQ. The Commission is publishing this notice

to solicit comments on the proposed rule change from interested persons.

I. <u>Self-Regulatory Organization's Statement of the Terms of Substance of the
Proposed Rule Change</u>

 NASDAQ proposes to add new Section 11 (Managed Data Solutions) to the NOM

rule book to establish Managed Data Solution fees for Non-Display Usage.

 While the changes proposed herein are effective upon filing, the Exchange has

designated that the amendments be operative on April 1, 2014.

 The text of the proposed rule change is available on the Exchange's Website

at http://www.nasdaq.cchwallstreet.com, 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. 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 Chapter XV (Options Pricing) by adding proposed new Section 11 in the NOM rule book to establish Managed Data Solution fees. The Exchange is proposing to create a new data distribution model (a Managed Data Solution for Non-Display Usage) to further the distribution of Best of NASDAQ Options and Itch to Trade Options ("BONO and ITTO"), (together "NOM data").

The proposed Managed Data Solution for Non-Display Usage is similar to data distribution models currently in use and aligns the Exchange with other markets.[3]

---

[3]   See Securities Exchange Act Release Nos. 70748 (October 23, 2013), 78 FR 64569 (October 29, 2013)(SR-Phlx-2013-105)(notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for Phlx); 70269 (August 27, 2013), 78 FR 54336 (September 3, 2013)(SR-NASDAQ-2013-106)(notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ); and 69182 (March 19, 2013), 78 FR 18378 (March 26, 2013)(SR-Phlx-2013-28)(notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for Phlx equities market PSX). See also Securities Exchange Act Release No. 69041 (March 5, 2013), 78 FR 15791 (March 12, 2013)(SR-BX-2013-018)(notice of filing and immediate

The Managed Data Solution proposal offers a delivery method to firms seeking

simplified market data administration. The Managed Data Solution for Non-Display

Usage may be offered by Distributors[4] externally distributing data to clients and/or client

organizations that are using the NOM data internally for Non-Display Usage. This new

pricing and administrative option is in response to industry demand, as well as due to

changes in the technology used to distribute market data. As such, rather than substantive

changes the proposal reflects current data distribution practices in the industry.

Distributors offering Managed Data Solutions for Non-Display Usage continue to be fee

liable for the applicable distributor, annual administrative and other applicable fees for

the receipt and distribution of NOM data.

This Managed Data Solution for Non-Display Usage is a delivery option that will

assess a new, innovative fee schedule to Distributors of NOM data that provide data feed

solutions such as an Application Programming Interface (API) or similar automated

delivery solutions to Recipients for Non-Display Usage with only limited entitlement

controls (*e.g.*, usernames and/or passwords) ("Managed Data Recipients"). However, the

Distributor must first agree to reformat, redisplay and/or alter the NOM data prior to

retransmission, but not to affect the integrity of the NOM data and not to render it

inaccurate, unfair, uninformative, fictitious, misleading, or discriminatory. A Managed

Data Solution for Non-Display Usage is any retransmission data product containing

NOM data offered by a Distributor where the Distributor manages and monitors, but does

---

effectiveness of proposed rule change to establish Managed Data Solution for
BX).

[4]   "Distributor" shall mean the same as in NOM Chapter XV, Section 4(b).
        Proposed Chapter XV, Section 11(b).

not control, the information and the Recipient of a Managed Data Solution may use the

information for internal Non-Display purposes only and may not distribute the

information outside of their organization. However, the Distributor does maintain

contracts with the Managed Data Recipients and is liable for any unauthorized use by the

Managed Data Recipients under a Managed Data Solution.

Currently, the Exchange does not distinguish between Managed Data Solution

Recipients and a recipient of an uncontrolled data product. Some Distributors believe

that the Managed Data Solution for Non-Display Usage is a viable alternative to an

uncontrolled data product. Some Distributors have even delayed deploying new NOM

data offerings, pending the initiation of Managed Data Solutions for Non-Display Usage.

Thus, offering a Managed Data Solution fee schedule would not only result in the

Exchange offering lower fees for existing Managed Data Recipients utilizing a Managed

Data Solution, but will allow new Distributors to deliver Managed Data Solutions to new

clients, thereby increasing transparency of the market.

The Exchange proposes to establish a monthly Managed Data Solution

Administration fee and a monthly Subscriber[5] fee for Distributors and Subscribers that

adopt the Managed Data Solution for Non-Display Usage.[6] The proposed fees for

---

[5]   "Subscriber" shall mean a device or computer terminal or an automated service
        which is entitled to receive Information. Proposed Chapter XV Section 11(c).

[6]   Without a Managed Data Solution as proposed herein, the current fee for internal
        distribution that is not a Managed Data Solution but rather an uncontrolled NOM
        data product with a distributor fee of $1,500 per month would apply (along with a
        $5 or $10 professional subscriber fee). Per the proposal for the Managed Data
        Solution, on the other hand, the Managed Data Recipient fee for Non-Display
        internal use of NOM Orders managed data would be $125 per Subscriber for each
        of ITTO and BONO, thereby providing a reduced cost option where the data is for
        Non-Display internal use only.

Managed Data Solutions products for Non-Display Usage -- ITTO would be $500/mo per

Distributor and $125/mo per Subscriber; and for Non-Display Usage -- BONO would be

$500/mo per Distributor and $125/mo per Subscriber.[7] The Exchange proposes to

establish a Managed Data Solution for Non-Display Usage only, as is done on other

markets. The Exchange believes that the proposal is in line with current market practice.[8]

> 2.   Statutory Basis

The Exchange believes that the proposed rule change is consistent with the

provisions of Section 6 of the Act,[9] in general, and with Section 6(b)(4) of the Act,[10] in

particular, in that it provides an equitable allocation of reasonable fees among

Subscribers and Recipients of NOM data. In adopting Regulation NMS, the Commission

granted self-regulatory organizations ("SROs") and broker-dealers ("BDs") increased

authority and flexibility to offer new and unique market data to the public. It was

believed that this authority would expand the amount of data available to consumers, and

also spur innovation and competition for the provision of market data.

The Commission concluded that Regulation NMS—by lessening the regulation of

the market in proprietary data—would itself further the Act's goals of facilitating

efficiency and competition:

---

[7]   The proposed monthly fee would be in addition to the monthly Market Data
        Distributor fee of $2,000 (for external usage) currently set forth in the Options
        Schedule in NOM Chapter XV for recipients of BONO and ITTO options data
        feeds.

[8]   The Exchange believes that most firms, as an example, currently use BONO and
        ITTO options data feeds in non-display format.

[9]   15 U.S.C. 78f.

[10]   15 U.S.C. 78f(b)(4).

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[11]

By removing "unnecessary regulatory restrictions" on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to BDs at all, it follows that the price at which such data is sold should be set by the market as well.

The decision of the United States Court of Appeals for the District of Columbia Circuit in NetCoaliton v. SEC, 615 F.3d 525 (D.C. Cir. 2010) ("NetCoalition I"), upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. "In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' NetCoaltion I, at 535 (quoting H.R. Rep. No. 94–229, at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 321, 323). The court agreed with the Commission's conclusion that "Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.'"[12]

---

[11]   Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[12]   NetCoalition I, at 535.

The court in NetCoalition I, while upholding the Commission's conclusion that

competitive forces may be relied upon to establish the fairness of prices, nevertheless

concluded that the record in that case did not adequately support the Commission's

conclusions as to the competitive nature of the market for NYSE Arca's data product at

issue in that case. As explained below in the Exchange's Statement on Burden on

Competition, however, the Exchange believes that there is substantial evidence of

competition in the marketplace for data that was not in the record in the NetCoalition I

case, and that the Commission is entitled to rely upon such evidence in concluding that

the fees established in this filing are the product of competition, and therefore in

accordance with the relevant statutory standards.[13] Moreover, the Exchange further notes

that the product at issue in this filing – NOM Managed Data Solutions for Non-Display

Usage fees – is quite different from the NYSE Arca depth-of-book data product at issue

in NetCoalition I. Accordingly, any findings of the court with respect to that product

may not be relevant to the product at issue in this filing.

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

The Exchange does not believe that the proposed rule change will result in any

burden on competition that is not necessary or appropriate in furtherance of the purposes

of the Act, as amended. The Exchange's ability to price its Managed Data Solution

products for Non-Display Usage is constrained by (1) competition between exchanges

and other trading platforms that compete with each other in a variety of dimensions; (2)

---

[13]   It should also be noted that Section 916 of the Dodd-Frank Wall Street Reform
          and Consumer Protection Act of 2010 ("Dodd-Frank Act") has amended
          paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make it clear
          that all exchange fees, including fees for market data, may be filed by exchanges
          on an immediately effective basis.

the existence of inexpensive real-time consolidated data and market-specific data and free delayed consolidated data; and (3) the inherent contestability of the market for this data.

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it

incurs. Moreover, the operation of the exchange is characterized by high fixed costs and

low marginal costs. This cost structure is common in content and content distribution

industries such as software, where developing new software typically requires a large

initial investment (and continuing large investments to upgrade the software), but once

the software is developed, the incremental cost of providing that software to an additional

user is typically small, or even zero (e.g., if the software can be downloaded over the

internet after being purchased).[14] In the Exchange's case, it is costly to build and

maintain a trading platform, but the incremental cost of trading each additional share on

an existing platform, or distributing an additional instance of data, is very low. Market

information and executions are each produced jointly (in the sense that the activities of

trading and placing orders are the source of the information that is distributed) and are

each subject to significant scale economies. In such cases, marginal cost pricing is not

feasible because if all sales were priced at the margin, the Exchange would be unable to

defray its platform costs of providing the joint products.

An exchange's BD customers view the costs of transaction executions and of data

as a unified cost of doing business with the exchange. A BD will direct orders to a

particular exchange only if the expected revenues from executing trades on the exchange

exceed net transaction execution costs and the cost of data that the BD chooses to buy to

support its trading decisions (or those of its customers). The choice of data products is, in

turn, a product of the value of the products in making profitable trading decisions. If the

cost of the product exceeds its expected value, the BD will choose not to buy it.

---

[14]   See William J. Baumol and Daniel G. Swanson, "The New Economy and
         Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of
         Market Power," Antitrust Law Journal, Vol. 70, No. 3 (2003).

Moreover, as a BD chooses to direct fewer orders to a particular exchange, the value of

the product to that BD decreases, for two reasons. First, the product will contain less

information, because executions of the BD's trading activity will not be reflected in it.

Second, and perhaps more important, the product will be less valuable to that BD because

it does not provide information about the venue to which it is directing its orders. Data

from the competing venue to which the BD is directing orders will become

correspondingly more valuable.

Similarly, in the case of products such as this that are distributed through market

data vendors, the vendors provide price discipline for proprietary data products because

they control the primary means of access to end users. Vendors impose price restraints

based upon their business models. For example, vendors such as Bloomberg and Reuters

that assess a surcharge on data they sell may refuse to offer proprietary products that end

users will not purchase in sufficient numbers. Internet portals, such as Google, impose a

discipline by providing only data that will enable them to attract "eyeballs" that

contribute to their advertising revenue. Retail BDs, such as Schwab and Fidelity, offer

their customers proprietary data only if it promotes trading and generates sufficient

commission revenue. Although the business models may differ, these vendors' pricing

discipline is the same: They can simply refuse to purchase any proprietary data product

that fails to provide sufficient value. The Exchange and other producers of proprietary

data products must understand and respond to these varying business models and pricing

disciplines in order to market proprietary data products successfully. Moreover, the

Exchange believes that products such as this can enhance order flow to the Exchange,

thereby encouraging wider participation in the market by investors with access to the

internet or television. Conversely, the value of such products to distributors and investors decreases if order flow falls, because the products contain less content.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platform may choose to pay rebates to attract orders, charge relatively low prices for market information (or provide information free of charge) and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower liquidity rebates to attract orders, setting relatively low prices for accessing posted liquidity and setting relatively high prices for market information. Still others may provide most data free of charge and rely exclusively on transaction fees to recover their costs. Finally, some platforms may incentivize use by providing opportunities for equity ownership, which may allow them

to charge lower direct fees for executions and data.

In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an "excessive" price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an increase in the price of data will ultimately have to be accompanied by a decrease in the cost of executions, or the volume of both data and executions will fall.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including thirteen SRO markets, as well as internalizing BDs and various forms of alternative trading systems ("ATSs"), including dark pools and electronic communication networks ("ECNs"). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities ("TRFs") compete to attract internalized transaction reports. It is common for BDs to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products.

The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced

plans to do so, including NASDAQ Stock Market LLC, New York Stock Exchange, The NYSE MKT LLC, NYSE Arca, Inc., BATS Exchange, Inc., and Direct Edge.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple BD production of proprietary data products. The potential sources of proprietary products are virtually limitless.

Market data vendors provide another form of price discipline for proprietary data products because they control the primary means of access to end Subscribers. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Thomson Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end Subscribers will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract "eyeballs" that contribute to their advertising revenue. Retail broker-dealers, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. The Exchange and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of

entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While BDs have previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg, and Thomson Reuters.

Competition among platforms has driven the Exchange continually to improve its platform data offerings and to cater to customers' data needs. For example, the Exchange has developed and maintained multiple delivery mechanisms (e.g., IP, multi-cast) that enable customers to receive data in the form and manner they prefer and at the lowest cost to them. The Exchange has created products like Depth Data and Top of Market Data, because offering data in multiple formatting allows the Exchange to better fit customer needs. The Exchange offers data via multiple extranet providers, thereby helping to reduce network and total cost for its data products. The Exchange has developed an online administrative system to provide customers transparency into their data feed requests and streamline data usage reporting.

Despite these enhancements and a dramatic increase in message traffic, the Exchange's fees for market data have remained flat. In fact, as a percent of total Subscriber costs, Exchange data fees have fallen relative to other data usage costs --

including bandwidth, programming, and infrastructure -- that have risen. The same holds true for execution services; despite numerous enhancements to the Exchange's trading platform, absolute and relative trading costs have declined. Platform competition has intensified as new entrants have emerged, constraining prices for both executions and for data.

The vigor of competition for proprietary information is significant and the Exchange believes that this proposal itself clearly evidences such competition. The Exchange is offering a new pricing model in order to keep pace with changes in the industry and evolving customer needs. It is entirely optional and is geared towards attracting new customers, as well as retaining existing customers.

The Exchange has witnessed competitors creating new products and innovative pricing in this space over the course of the past year. The Exchange continues to see firms challenge its pricing on the basis of the Exchange's explicit fees being higher than the zero-priced fees from other competitors such as BATS. In all cases, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with the Exchange or other exchanges. Of course, the explicit data fees are but one factor in a total platform analysis. Some competitors have lower transactions fees and higher data fees, and others are vice versa. The market for this proprietary information is highly competitive and continually evolves as products develop and change.

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

No written comments were either solicited or received.

III.   <u>Date of Effectiveness of the Proposed Rule Change and Timing for Commission</u>

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

IV.   Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2014-029 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2014-029. This file number should be included on the subject line if e-mail is used. To help the Commission

---

[15]   15 U.S.C. 78s(b)(3)(A)(ii).

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-2014-029 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]

Kevin M. O'Neill
Deputy Secretary

---

[16]   17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

NASDAQ Stock Market Rules

Options Rules

* * * * *

Chapter XV Options Pricing

NASDAQ Options Market Participants may be subject to the Charges for Membership, Services and Equipment in the Rule 7000 Series as well as the fees in this Chapter XV. For purposes of assessing fees and paying rebates, the following references should serve as guidance.
The term **"Customer"** or ("C") applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of broker or dealer or for the account of a "Professional" (as that term is defined in Chapter I, Section 1(a)(48)).

The term **"NOM Market Maker"** or ("M") is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

The term **"Non-NOM Market Maker"** or ("O") is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

The term **"Firm"** or ("F") applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

The term **"Professional"** or ("P") means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

The term **"Broker-Dealer"** or ("B") applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

The term **"Common Ownership"** shall mean Participants under 75% common ownership or control.

With respect to Chapter XV, Sections 2(1) and (2) the order that is received by the trading

system first in time shall be considered an order adding liquidity and an order that trades against that order shall be considered an order removing liquidity.

Sec. 1 - Sec. 10   No Change.

Sec. 11 Managed Data Solutions

(a) The charges to be paid by Distributors and Subscribers of Managed Data Solutions products for Non-Display Usage containing BONO or ITTO shall be:

Fee schedule for Managed Data Solutions for Non-Display Usage -- ITTO	**Price**
Managed Data Solution Administration Fee (for the right to offer Managed Data Solutions for Non-Display Usage to client organizations)	$500/mo Per Distributor
NOM Managed Data Solution Subscriber Fee	$125/mo per Subscriber

Fee schedule for Managed Data Solutions for Non-Display Usage -- BONO	**Price**
Managed Data Solution Administration Fee (for the right to offer Managed Data Solutions for Non-Display Usage to client organizations)	$500/mo Per Distributor

NOM Managed Data Solution Subscriber Fee	$125/mo per Subscriber

(b) "Distributor" shall mean the same as in NOM Chapter XV, Section 4(b).

(c) "Subscriber" shall mean a device or computer terminal or an automated service which is entitled to receive Information.

* * * * *