

Required fields are shown with yellow backgrounds and asterisks.

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) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

Description

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

Proposed rule change to add NextShares to the list of securities eligible to be Qualified Securities under the Lead Market Maker Program of Rule 7014(f).

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 * Sean	Last Name * Bennett
Title * Associate General Counsel	
E-mail * Sean.Bennett@nasdaq.com	
Telephone * (301) 978-8499	Fax

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 02/02/2016	Executive Vice President and General Counsel
By Edward S. Knight	
(Name *)	

edward.knight@nasdaq.com

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 EFFF website.

Form 19b-4 Information *

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

Exhibit 1 - Notice of Proposed Rule Change *

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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 *

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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, 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

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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

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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

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) 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”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to add NextShares to the list of securities eligible to be Qualified Securities under the Lead Market Maker Program of Rule 7014(f) and to make a technical change to the rule.

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 set forth in 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 Nasdaq pursuant to authority delegated by the Board of Directors of Nasdaq. No other action by Nasdaq is necessary for the filing of the rule change. Nasdaq will implement the proposed rule change on February 26, 2016.

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

T. Sean Bennett
Associate General Counsel
Nasdaq, Inc.
(301) 978-8499

¹ 15 U.S.C. § 78s(b)(1).

² 17 C.F.R. § 240.19b-4.

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

a. Purpose

Background

Nasdaq is proposing to include NextShares, listed under Rule 5745, to the list of securities eligible to be treated as a Qualified Security under the Lead Market Maker ("LMM") Program of Rule 7014(f).

The LMM Program is designed to provide incentive to market makers to make markets in certain relatively illiquid exchange-traded products ("ETPs"). To achieve this goal, Nasdaq provides credits to a designated LMM for execution of a Qualified Security. Under Rule 7014(f)(1), a security may be designated as a "Qualified Security" if: (A) it is an exchange-traded fund or index-linked security listed on Nasdaq pursuant to Nasdaq Rules 5705, 5710, 5720, or 5735; and (B) it has at least one LMM.

An LMM is a registered Nasdaq market maker for a Qualified Security that has committed to maintain minimum performance standards, which are based on certain percentages of time that the LMM is quoting at the national best bid and offer ("NBBO"). An LMM is selected by Nasdaq based on several factors including, but not limited to, experience with making markets in exchange-traded funds and index-linked securities, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. Nasdaq may limit the number of LMMs in a security, or modify a previously established limit, upon prior written notice to members.

Proposed Change to Rule 7014(f)

As previously noted, Nasdaq currently includes in the program Portfolio Depository Receipts, Index Fund Shares, Securities Linked to the Performance of Indexes and Commodities (Including Currencies), Trust Issued Receipts, and Managed Fund Shares. Nasdaq is proposing to add another ETP, NextShares, as eligible to be a Qualified Security under the LMM Program.

The term NextShares means a security that (a) represents an interest in a registered investment company (“NextShares Fund”) organized as an open-end management investment company that invests in a portfolio of securities and other assets selected and managed by the NextShares Fund’s investment adviser consistent with the NextShares Fund’s investment objectives and policies; (b) is issued in a specified aggregate unit quantity in return for a deposit of a specified portfolio of securities and/or a cash amount with a value per NextShare equal to the NextShares Fund’s net asset value; (c) when aggregated in the same specified unit quantity, may be redeemed for a specified portfolio of securities and/or cash with a value per NextShare equal to the NextShares Fund’s net asset value; and (d) is traded on Nasdaq or another national securities exchange using net asset value (“NAV”)-Based Trading.³ NextShares will trade on Nasdaq using a new trading protocol called “NAV-Based Trading.” In NAV-Based Trading, all bids, offers and execution prices will be expressed as a premium/discount (which may be zero) to the NextShares’ next-determined NAV (e.g., NAV-\$ 0.01; NAV+\$ 0.01). A NextShares’ next-determined NAV will be represented at the beginning of each trading day by a proxy price of 100.00. A NextShares’ NAV will

³ See Rule 5745(c)(1).

be determined each business day, normally no later than 6:45 p.m. Eastern Time. At this time, the day's premiums/discounts associated with the day's transactions will be applied to the day's NAV to create the final transaction price. Trade executions using NAV-Based Trading will be binding at the time orders are matched on Nasdaq's facilities, with the transaction prices contingent upon the determination of the NextShares' NAV at the end of the business day. Nasdaq represents that an NextShares' next-determined NAV will be represented by a proxy price (e.g., 100.00) and a premium/discount of a stated amount to the next-determined NAV to be represented by the same increment/decrement from the proxy price used to denote NAV (e.g., NAV-\$0.01 would be represented as 99.99; NAV+\$0.01 as 100.01). To convert proxy prices used to represent intraday bids, offers, and execution prices into prices expressed in relation to the next-determined NAV, member firms would subtract from the reported proxy price (e.g., 99.99) the proxy for NAV (e.g., 100.00) and insert "NAV" in front of the calculated number expressed in dollars (e.g., $99.99 - 100.00 = -0.01$, expressed as "NAV-\$0.01"). Nasdaq will report intraday bids, offers, and trades for NextShares in real-time to the Consolidated Tape using the proxy price format. In addition, Nasdaq will disseminate intraday NextShares bids, offers, and trades through a proprietary exchange data feed using the NAV + \$.01 / NAV - \$.01 format. Nasdaq will also provide the member firms participating in each NextShares trade with a contemporaneous notice of trade execution, indicating the number NextShares bought or sold and the executed premium/discount to NAV. All orders to buy or sell NextShares that are not executed on the day the order is submitted would be automatically cancelled as of the close of trading on such day.⁴

⁴ For a description of NAV-Based Trading and proxy price, see Rule 5745(b)(3);

As a new and novel ETP, Nasdaq is proposing to include NextShares in its LMM Program to provide incentive to market makers to make markets in NextShares, which will help to ensure that adequate liquidity is provided in the novel product. This will benefit market participants interested in buying or selling these ETPs. As noted above, the LMM Program's performance criteria are based on an LMM's quoting at the NBBO. For purposes of the LMM Program, Nasdaq will use a NextShares' best proxy price bid and offer in comparison to an LMM's quoting at the time to determine whether it meets the performance criteria. Nasdaq will list and trade the first NextShares product on February 26, 2016 and plans to include NextShares in the LMM Program as Qualified Securities effective that day.

Nasdaq is also proposing to make a technical change to rule text in Rule 7014(f). Currently, Nasdaq describes Qualified Securities as being "exchange-traded fund or index-linked security listed on Nasdaq pursuant to Nasdaq Rules 5705, 5710, 5720, or 5735."⁵ Nasdaq is proposing to replace references to exchange-traded funds and index-linked securities under subparagraphs (f)(1)(A) and (f)(2) of Rule 7014 with the term "exchange-traded product," which is a broader term that incorporates exchange-traded funds, index-linked securities, and NextShares within its meaning. The new term does not change what is eligible to be a Qualified Security under the rule.

see also Securities Exchange Act Release No. 73562 (November 7, 2014), 79 FR 68309 (November 14, 2014) (SR-NASDAQ-2014-020) and Securities Exchange Act Release No. 75815 (September 2, 2015), 80 FR 54349 (September 9, 2015) (SR-NASDAQ-2015-103).

⁵ Rule 7014(f)(1)(A).

b. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Nasdaq believes that inclusion of NextShares in the LMM Program is reasonable because the new ETP is novel, and offering incentives to market makers to provide liquidity in the product will help ensure its successful launch. The LMM Program is designed to improve liquidity in ETPs by allocating rebates to LMMs that quote at the national best bid and best offer for certain percentages of time. As additional incentive, the LMM Program also provides different levels of fee caps on the fees assessed for participation in the Opening and Closing Crosses on Nasdaq. The LMM Program has been successful at improving market quality in the securities covered by the program. Thus Nasdaq believes the program will be effective at providing incentive to market

⁶ 15 U.S.C. § 78f.

⁷ 15 U.S.C. § 78f(b)(4) and (5).

makers on Nasdaq to become LMMs in NextShares thereby improving market quality in those securities. Nasdaq believes that the proposed change to Rule 7014(f) is an equitable allocation and is not unfairly discriminatory because all market makers that are elected to be designated as LMMs and meet the minimum performance criteria have the opportunity to qualify for a rebate and fee cap under the program in NextShares. Nasdaq believes that the proposed rule change will protect investors and the public interest because it may increase market maker participation in NextShares, which would in turn make the market in NextShares deeper and more liquid than it would be if NextShares were not included in the program. Deep and liquid markets protect investors and promote the public interest by allowing market participants to buy and sell securities quickly at competitive prices.

Lastly, Nasdaq believes that the proposed use of the term exchange-traded product in lieu of the terms exchange-traded fund and index-linked security is consistent with the protection of investors and the public interest because it clarifies the rule text with a more commonly-used term to describe the securities eligible to be Qualified Securities under the LMM Program and does not change the type of securities eligible to be included in the program.

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

Nasdaq 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. Specifically, the change is designed to improve market quality through the application of an ETP incentive program to a type of ETP that is currently not part of the program. A new ETP product, NextShares, may have comparatively low liquidity upon listing. Including NextShares in the LMM Program is designed to improve market

quality in NextShares. Lastly, to the extent market quality in NextShares improves from inclusion in the LMM Program, the proposed change may promote competition among exchanges for new NextShares listings and similar incentive programs, to the benefit of all market participants trading NextShares.

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)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act⁸ and paragraph (f)(6) of Rule 19b-4 thereunder,⁹ in that the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The proposed change is not a burden on competition, but rather may encourage competition among

⁸ 15 U.S.C. § 78s(b)(3)(A).

⁹ 17 C.F.R. § 240.19b-4(f)(6).

exchanges for both listings and similar incentive programs to improve market quality.

The proposed change will not significantly affect the protection of investors because it is designed to improve market quality in NextShares, which will benefit market participants to the extent the program is effective for such securities.

Nasdaq respectfully requests that the Commission waive the 30-day operative delay pursuant to Section 19(b)(3)(A) of the Act¹⁰ and paragraph (f)(6) of Rule 19b-4¹¹ thereunder so that NextShares may be included as a Qualified Security in the LMM Program on February 26, 2016, the first day of trading for NextShares on Nasdaq. Waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow NextShares investors to benefit from the increased liquidity that a LMM provides in a Qualified Security at the earliest time possible. As noted above, deep and liquid markets protect investors and promote the public interest by allowing market participants to buy and sell securities quickly at competitive prices. As a new and novel ETP, Nasdaq believes that including NextShares in the LMM Program is important to the successful launch of its trading on Nasdaq, which will benefit market participants investing in NextShares on the first day of trading.

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 15 U.S.C. § 78s(b)(3)(A).

¹¹ 17 C.F.R. § 240.19b-4(f)(6).

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 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-2016-019)

February __, 2016

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Include NextShares in the Lead Market Maker Program

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 February 2, 2016, The NASDAQ Stock Market LLC (“Nasdaq”) 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 Nasdaq. 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

Nasdaq proposes to add NextShares to the list of securities eligible to be Qualified Securities under the Lead Market Maker Program of Rule 7014(f) and to make a technical change to the rule. Nasdaq will implement the proposed rule change on February 26, 2016.

The text of the proposed rule change is available on the Nasdaq’s Website at <http://nasdaq.cchwallstreet.com>, at the principal office of Nasdaq, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. § 78s(b)(1).

² 17 C.F.R. § 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, Nasdaq 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. Nasdaq 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

Background

Nasdaq is proposing to include NextShares, listed under Rule 5745, to the list of securities eligible to be treated as a Qualified Security under the Lead Market Maker ("LMM") Program of Rule 7014(f).

The LMM Program is designed to provide incentive to market makers to make markets in certain relatively illiquid exchange-traded products ("ETPs"). To achieve this goal, Nasdaq provides credits to a designated LMM for execution of a Qualified Security. Under Rule 7014(f)(1), a security may be designated as a "Qualified Security" if: (A) it is an exchange-traded fund or index-linked security listed on Nasdaq pursuant to Nasdaq Rules 5705, 5710, 5720, or 5735; and (B) it has at least one LMM.

An LMM is a registered Nasdaq market maker for a Qualified Security that has committed to maintain minimum performance standards, which are based on certain percentages of time that the LMM is quoting at the national best bid and offer ("NBBO"). An LMM is selected by Nasdaq based on several factors including, but not limited to, experience with making markets in exchange-traded funds and index-linked securities,

adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. Nasdaq may limit the number of LMMs in a security, or modify a previously established limit, upon prior written notice to members.

Proposed Change to Rule 7014(f)

As previously noted, Nasdaq currently includes in the program Portfolio Depository Receipts, Index Fund Shares, Securities Linked to the Performance of Indexes and Commodities (Including Currencies), Trust Issued Receipts, and Managed Fund Shares. Nasdaq is proposing to add another ETP, NextShares, as eligible to be a Qualified Security under the LMM Program.

The term NextShares means a security that (a) represents an interest in a registered investment company (“NextShares Fund”) organized as an open-end management investment company that invests in a portfolio of securities and other assets selected and managed by the NextShares Fund’s investment adviser consistent with the NextShares Fund’s investment objectives and policies; (b) is issued in a specified aggregate unit quantity in return for a deposit of a specified portfolio of securities and/or a cash amount with a value per NextShare equal to the NextShares Fund’s net asset value; (c) when aggregated in the same specified unit quantity, may be redeemed for a specified portfolio of securities and/or cash with a value per NextShare equal to the NextShares Fund’s net asset value; and (d) is traded on Nasdaq or another national securities exchange using net asset value (“NAV”)-Based Trading.³ NextShares will trade on Nasdaq using a new trading protocol called “NAV-Based Trading.” In NAV-

³ See Rule 5745(c)(1).

Based Trading, all bids, offers and execution prices will be expressed as a premium/discount (which may be zero) to the NextShares' next-determined NAV (e.g., NAV-\$ 0.01; NAV+\$ 0.01). A NextShares' next-determined NAV will be represented at the beginning of each trading day by a proxy price of 100.00. A NextShares' NAV will be determined each business day, normally no later than 6:45 p.m. Eastern Time. At this time, the day's premiums/discounts associated with the day's transactions will be applied to the day's NAV to create the final transaction price. Trade executions using NAV-Based Trading will be binding at the time orders are matched on Nasdaq's facilities, with the transaction prices contingent upon the determination of the NextShares' NAV at the end of the business day. Nasdaq represents that an NextShares' next-determined NAV will be represented by a proxy price (e.g., 100.00) and a premium/discount of a stated amount to the next-determined NAV to be represented by the same increment/decrement from the proxy price used to denote NAV (e.g., NAV-\$0.01 would be represented as 99.99; NAV+\$0.01 as 100.01). To convert proxy prices used to represent intraday bids, offers, and execution prices into prices expressed in relation to the next-determined NAV, member firms would subtract from the reported proxy price (e.g., 99.99) the proxy for NAV (e.g., 100.00) and insert "NAV" in front of the calculated number expressed in dollars (e.g., $99.99 - 100.00 = -0.01$, expressed as "NAV-\$0.01"). Nasdaq will report intraday bids, offers, and trades for NextShares in real-time to the Consolidated Tape using the proxy price format. In addition, Nasdaq will disseminate intraday NextShares bids, offers, and trades through a proprietary exchange data feed using the NAV + \$.01 / NAV - \$.01 format. Nasdaq will also provide the member firms participating in each NextShares trade with a contemporaneous notice of trade execution, indicating the

number NextShares bought or sold and the executed premium/discount to NAV. All orders to buy or sell NextShares that are not executed on the day the order is submitted would be automatically cancelled as of the close of trading on such day.⁴

As a new and novel ETP, Nasdaq is proposing to include NextShares in its LMM Program to provide incentive to market makers to make markets in NextShares, which will help to ensure that adequate liquidity is provided in the novel product. This will benefit market participants interested in buying or selling these ETPs. As noted above, the LMM Program's performance criteria are based on an LMM's quoting at the NBBO. For purposes of the LMM Program, Nasdaq will use a NextShares' best proxy price bid and offer in comparison to an LMM's quoting at the time to determine whether it meets the performance criteria. Nasdaq will list and trade the first NextShares product on February 26, 2016 and plans to include NextShares in the LMM Program as Qualified Securities effective that day.

Nasdaq is also proposing to make a technical change to rule text in Rule 7014(f). Currently, Nasdaq describes Qualified Securities as being "exchange-traded fund or index-linked security listed on Nasdaq pursuant to Nasdaq Rules 5705, 5710, 5720, or 5735."⁵ Nasdaq is proposing to replace references to exchange-traded funds and index-linked securities under subparagraphs (f)(1)(A) and (f)(2) of Rule 7014 with the term "exchange-traded product," which is a broader term that incorporates exchange-traded

⁴ For a description of NAV-Based Trading and proxy price, see Rule 5745(b)(3); see also Securities Exchange Act Release No. 73562 (November 7, 2014), 79 FR 68309 (November 14, 2014) (SR-NASDAQ-2014-020) and Securities Exchange Act Release No. 75815 (September 2, 2015), 80 FR 54349 (September 9, 2015) (SR-NASDAQ-2015-103).

⁵ Rule 7014(f)(1)(A).

funds, index-linked securities, and NextShares within its meaning. The new term does not change what is eligible to be a Qualified Security under the rule.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Nasdaq believes that inclusion of NextShares in the LMM Program is reasonable because the new ETP is novel, and offering incentives to market makers to provide liquidity in the product will help ensure its successful launch. The LMM Program is designed to improve liquidity in ETPs by allocating rebates to LMMs that quote at the national best bid and best offer for certain percentages of time. As additional incentive, the LMM Program also provides different levels of fee caps on the fees assessed for participation in the Opening and Closing Crosses on Nasdaq. The LMM Program has

⁶ 15 U.S.C. § 78f.

⁷ 15 U.S.C. § 78f(b)(4) and (5).

been successful at improving market quality in the securities covered by the program. Thus Nasdaq believes the program will be effective at providing incentive to market makers on Nasdaq to become LMMs in NextShares thereby improving market quality in those securities. Nasdaq believes that the proposed change to Rule 7014(f) is an equitable allocation and is not unfairly discriminatory because all market makers that are elected to be designated as LMMs and meet the minimum performance criteria have the opportunity to qualify for a rebate and fee cap under the program in NextShares. Nasdaq believes that the proposed rule change will protect investors and the public interest because it may increase market maker participation in NextShares, which would in turn make the market in NextShares deeper and more liquid than it would be if NextShares were not included in the program. Deep and liquid markets protect investors and promote the public interest by allowing market participants to buy and sell securities quickly at competitive prices.

Lastly, Nasdaq believes that the proposed use of the term exchange-traded product in lieu of the terms exchange-traded fund and index-linked security is consistent with the protection of investors and the public interest because it clarifies the rule text with a more commonly-used term to describe the securities eligible to be Qualified Securities under the LMM Program and does not change the type of securities eligible to be included in the program.

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

Nasdaq 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. Specifically, the change is designed to improve market quality through the application of an ETP incentive program to a type of ETP that is currently not part of

the program. A new ETP product, NextShares, may have comparatively low liquidity upon listing. Including NextShares in the LMM Program is designed to improve market quality in NextShares. Lastly, to the extent market quality in NextShares improves from inclusion in the LMM Program, the proposed change may promote competition among exchanges for new NextShares listings and similar incentive programs, to the benefit of all market participants trading NextShares.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹ 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

⁸ 15 U.S.C. § 78s(b)(3)(a)(iii).

⁹ 17 C.F.R. § 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. Nasdaq has satisfied this requirement.

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-2016-019 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2016-019. 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 Nasdaq. 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-2016-019 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.¹⁰

Robert W. Errett
Deputy Secretary

¹⁰ 17 C.F.R. § 200.30-3(a)(12).

EXHIBIT 5

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are bracketed.

* * * * *

7014. Market Quality Incentive Programs**Investor Support Program**

(a) – (c) No change.

Qualified Market Maker (“QMM”) Program

(d) – (e) No change.

Lead Market Maker (“LMM”) Program

(f) The following fees and rebates discussed in this section shall apply to transactions in a Qualified Security by one of its Lead Market Makers in lieu of fees and rebates provided under Rules 7018 and 7014. If the LMM qualifies for a lower fee under Rule 7018 than the fees outlined in the LMM Program the lower fee from Rule 7018 shall apply.

For purposes of this paragraph:

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

(A) it is an exchange-traded product[fund or index-linked security] listed on Nasdaq pursuant to Nasdaq Rules 5705, 5710, 5720, [or]5735, or 5745;

(B) it has at least one Lead Market Maker.

(2) A “Lead Market Maker” or “LMM” is a registered Nasdaq market maker for a Qualified Security that has committed to maintain minimum performance standards. A LMM shall be selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products[funds and index-linked securities], adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. Nasdaq may limit the number of LMMs in a security, or modify a previously established limit, upon prior written notice to members.

(3) – (4) No change.

NBBO Program

(g) No change.

Definitions and Certifications

(h) – (i) No change.

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