

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 21	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2016 - * 057	Amendment No. (req. for Amendments *)
Filing by NASDAQ Stock Market Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934				
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>	
			Rule	
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934	
Section 806(e)(1) * <input type="checkbox"/>		Section 806(e)(2) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>	
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>			
<b>Description</b>				
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).				
<input type="text" value="Proposed rule change to amend Closed-End Funds annual fee correction and clarification."/>				
<b>Contact Information</b>				
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 *	<input type="text" value="Nikolai"/>	Last Name *	<input type="text" value="Utochkin"/>	
Title *	<input type="text" value="Counsel"/>			
E-mail *	<input type="text" value="Nikolai.Utochkin@nasdaq.com"/>			
Telephone *	<input type="text" value="(301) 978-8029"/>	Fax	<input type="text"/>	
<b>Signature</b>				
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	<input type="text" value="04/28/2016"/>	<input type="text" value="Executive Vice President and General Counsel"/>		
By	<input type="text" value="Edward S. Knight"/>	<input type="text"/>		
(Name *)				
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.				
<input type="button" value="edward.knight@nasdaq.com"/>				

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 \***

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**

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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**

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**

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

**Exhibit 5 - Proposed Rule Text**

Add Remove View

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

**Partial Amendment**

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

1. Text of the Proposed Rule Change

(a) The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to clarify and conform the amount of annual fees charged to individual closed-end management investment companies registered under the Investment Company Act of 1940, as amended (“Closed-End Funds”) and two or more Closed-End Funds that have a common investment adviser or have investment advisers who are “affiliated persons” as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended (“fund family”). These amendments are effective upon filing.

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 set forth below.

Proposed new language is underlined; deleted text is in brackets.

\* \* \* \* \*

**5910. The Nasdaq Global Market (including the Nasdaq Global Select Market)**

(a) - (c) No change.

**(d) Standard Annual Fee — American Depositary Receipts (ADRs) and Closed-End Funds**

(1) - (3) No change.

**(4)** For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. The maximum annual fee applicable to a fund family shall not exceed [\$75,000

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

]\$80,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(5) - (6) No change.

(e) - (f) No change.

#### **IM-5910-1. All-Inclusive Annual Listing Fee**

(a) - (c) No change.

(d) The All-Inclusive Annual Listing Fee will be calculated on total shares outstanding according to the following schedules:

(1) - (2) No change.

(3) Closed-end Funds:

Up to 50 million shares	\$30,000
50+ to 100 million shares	\$50,000
100+ to 250 million shares	\$75,000
Over 250 million shares	\$100,000

For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. A fund family is subject to the same fee schedule as a single Closed-End Fund and the maximum All-Inclusive Annual Listing Fee applicable to a fund family shall not exceed \$100,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(e) No change.

#### **5920. The Nasdaq Capital Market**

(a) - (b) No change.

#### **(c) Standard Annual Fee**

(1) - (6) No change.

(7) Notwithstanding paragraph (6), for the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market and the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent

information held by Nasdaq. The maximum annual fee applicable to a fund family shall not exceed [~~\$75,000~~ ]\$80,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(8) No change.

(d) - (e) No change.

**IM-5920-1. All-Inclusive Annual Listing Fee**

(a) - (c) No change.

(d) The All-Inclusive Annual Listing Fee will be calculated on total shares outstanding according to the following schedules:

(1) - (2) No change.

(3) Closed-end Funds:

Up to 50 million shares	\$30,000
50+ to 100 million shares	\$50,000
100+ to 250 million shares	\$75,000
Over 250 million shares	\$100,000

For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. A fund family is subject to the same fee schedule as a single Closed-End Fund and the maximum All-Inclusive Annual Listing Fee applicable to a fund family shall not exceed \$100,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(e) No change.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”) on July 1, 2015. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

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

Nikolai Utochkin  
Counsel  
Listing and Governance  
Nasdaq, Inc.  
(301) 978-8029.

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 clarify and conform the amount of annual fees charged to a single Closed-End Fund and a fund family.

In 2005, Nasdaq adopted a fee schedule applicable specifically to Closed-End Funds and permitted a fund sponsor to aggregate the shares outstanding of all Closed-End Funds listed on Nasdaq that are part of the fund family.<sup>3</sup> The maximum annual fee payable by a fund family was set to \$75,000, equal to the maximum annual fee payable by a single Closed-End Fund.

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<sup>3</sup> Securities Exchange Act Release No. 52277 (August 17, 2005), 70 FR 49347 (August 22, 2005) (approving SR-NASD-2005-96).

In 2014, Nasdaq adopted a new All-Inclusive Annual Listing Fee schedule and increased the maximum annual fee payable by a single Closed-End Fund.<sup>4</sup> At that time, Nasdaq inadvertently created a disparity between the maximum annual fees payable by a single Closed-End Fund and by a fund family. While Nasdaq increased the maximum annual fee payable by a single Closed-End Fund from \$75,000 to \$80,000 and introduced a new All-Inclusive Annual Listing Fee schedule with the maximum annual fee payable by a single Closed-End Fund equal to \$100,000,<sup>5</sup> the maximum annual fee payable by a fund family under the standard annual fee was not changed and remained at \$75,000. In addition, rules specifically allowing for the aggregation of shares in a fund family were not included in the new All-Inclusive Annual Fee.

Nasdaq proposes to amend Listing Rules 5910(d)(4) and 5920(c)(7) to increase the maximum annual fee payable by a fund family to \$80,000 to conform such fee to the maximum annual fee payable by a single Closed End Fund. The creation of this disparity between the fees was inadvertent and Nasdaq believes that it is reasonable for a fund family to be subject to the same maximum fee schedule than a single Closed-End Fund.

In addition, Nasdaq proposes to amend Listing Rules IM-5910-1 and IM-5920-1 to clarify that a fund family subject to the All-Inclusive Annual Fee can aggregate shares in the same manner as a fund family subject to Nasdaq's standard annual fee.

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<sup>4</sup> Securities Exchange Act Release No. 73647 (November 19, 2014), 79 FR 70232 (November 25, 2014) (approving SR-NASDAQ-2014-87).

<sup>5</sup> Id.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a preliminary matter, Nasdaq competes for listings with other national securities exchanges and companies can easily choose to list on, or transfer to, those alternative venues. As a result, the fees Nasdaq can charge listed companies are constrained by the fees charged by its competitors and Nasdaq cannot charge prices in a manner that would be unreasonable, inequitable, or unfairly discriminatory.

Nasdaq believes that the proposed increase in the annual maximum fee payable by a fund family is reasonable and not unfairly discriminatory because such fee is not greater than the fee payable by a single Closed-End Fund that could be a part of the same fund family. The parity in such fees had previously been approved by the Commission.<sup>8</sup> The proposed rule change makes no adjustments to the fee schedule applicable to the Closed-End Funds.

Nasdaq also believes that the proposed additional interpretive material merely clarifies, without changing the substance of the rules, Nasdaq's current position that a

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>8</sup> See footnote 3, *supra*.

fund family subject to the All-Inclusive Annual Listing Fee schedule is subject to the same fee schedule as a single Closed-End Fund. These companies are particularly sensitive to the expenses they incur, given that they compete for investment dollars based on return. In addition, Closed-End Funds need to issue shares as a primary means to expand their businesses and raise additional money to invest. As such, Nasdaq believes that allowing a fund family to aggregate the shares outstanding of all Closed-End Funds listed on Nasdaq that are part of the fund family is reasonable and not inequitable or unfairly discriminatory.

Finally, Nasdaq believes that the proposed fees are consistent with the investor protection objectives of Section 6(b)(5) of the Act<sup>9</sup> in that they are designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest. Specifically, the fees are designed, in part, to ensure that there are adequate resources for Nasdaq's listing compliance program, which helps to assure that listing standards are properly enforced and investors are protected.

#### 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. The market for listing services is extremely competitive and listed companies may freely choose alternative venues based on the aggregate fees assessed, and the value provided by each listing. This rule proposal does not burden competition with other listing venues, which are similarly free to set their fees. Moreover, the

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<sup>9</sup> 15 U.S.C. 78f(b)(5).

proposed rule merely conforms fees charged to similarly situated Nasdaq listed Closed-End Funds and fund families. For these reasons, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Nasdaq 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.

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,<sup>10</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.

**EXHIBIT 1**

## SECURITIES AND EXCHANGE COMMISSION

(Release No. \_\_\_\_\_ ; File No. SR-NASDAQ-2016-057)

May \_\_, 2016

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend and Clarify Closed-End Funds Annual Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 28, 2016, The NASDAQ Stock Market LLC (“Nasdaq or Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to clarify and conform the amount of annual fees charged to individual closed-end management investment companies registered under the Investment Company Act of 1940, as amended (“Closed-End Funds”) and two or more Closed-End Funds that have a common investment adviser or have investment advisers who are “affiliated persons” as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended (“fund family”). These amendments are effective upon filing. The

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

text of the proposed rule change is set forth below. Proposed new language is underlined; deleted text is in brackets.

\* \* \* \* \*

**5910. The Nasdaq Global Market (including the Nasdaq Global Select Market)**

(a) - (c) No change.

**(d) Standard Annual Fee — American Depositary Receipts (ADRs) and Closed-End Funds**

(1) - (3) No change.

**(4)** For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. The maximum annual fee applicable to a fund family shall not exceed [~~\$75,000~~ \$80,000]. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(5) - (6) No change.

(e) - (f) No change.

**IM-5910-1. All-Inclusive Annual Listing Fee**

(a) - (c) No change.

(d) The All-Inclusive Annual Listing Fee will be calculated on total shares outstanding according to the following schedules:

(1) - (2) No change.

(3) Closed-end Funds:

Up to 50 million shares	\$30,000
50+ to 100 million shares	\$50,000
100+ to 250 million shares	\$75,000
Over 250 million shares	\$100,000

For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the

appropriate regulatory authority or in more recent information held by Nasdaq. A fund family is subject to the same fee schedule as a single Closed-End Fund and the maximum All-Inclusive Annual Listing Fee applicable to a fund family shall not exceed \$100,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(e) No change.

### **5920. The Nasdaq Capital Market**

(a) - (b) No change.

#### **(c) Standard Annual Fee**

(1) - (6) No change.

(7) Notwithstanding paragraph (6), for the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market and the Nasdaq Capital Market, as shown in the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. The maximum annual fee applicable to a fund family shall not exceed [~~\$75,000~~] ~~\$80,000~~. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(8) No change.

(d) - (e) No change.

#### **IM-5920-1. All-Inclusive Annual Listing Fee**

(a) - (c) No change.

(d) The All-Inclusive Annual Listing Fee will be calculated on total shares outstanding according to the following schedules:

(1) - (2) No change.

(3) Closed-end Funds:

Up to 50 million shares	\$30,000
50+ to 100 million shares	\$50,000
100+ to 250 million shares	\$75,000
Over 250 million shares	\$100,000

For the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market, as shown in

the Company's most recent periodic reports required to be filed with the appropriate regulatory authority or in more recent information held by Nasdaq. A fund family is subject to the same fee schedule as a single Closed-End Fund and the maximum All-Inclusive Annual Listing Fee applicable to a fund family shall not exceed \$100,000. For purposes of this rule, a "fund family" is defined as two or more Closed-End Funds that have a common investment adviser or have investment advisers who are "affiliated persons" as defined in Section 2(a)(3) of the Investment Company Act of 1940, as amended.

(e) No change.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to clarify and conform the amount of annual fees charged to a single Closed-End Fund and a fund family.

In 2005, Nasdaq adopted a fee schedule applicable specifically to Closed-End Funds and permitted a fund sponsor to aggregate the shares outstanding of all Closed-End

Funds listed on Nasdaq that are part of the fund family.<sup>3</sup> The maximum annual fee payable by a fund family was set to \$75,000, equal to the maximum annual fee payable by a single Closed-End Fund.

In 2014, Nasdaq adopted a new All-Inclusive Annual Listing Fee schedule and increased the maximum annual fee payable by a single Closed-End Fund.<sup>4</sup> At that time, Nasdaq inadvertently created a disparity between the maximum annual fees payable by a single Closed-End Fund and by a fund family. While Nasdaq increased the maximum annual fee payable by a single Closed-End Fund from \$75,000 to \$80,000 and introduced a new All-Inclusive Annual Listing Fee schedule with the maximum annual fee payable by a single Closed-End Fund equal to \$100,000,<sup>5</sup> the maximum annual fee payable by a fund family under the standard annual fee was not changed and remained at \$75,000. In addition, rules specifically allowing for the aggregation of shares in a fund family were not included in the new All-Inclusive Annual Fee.

Nasdaq proposes to amend Listing Rules 5910(d)(4) and 5920(c)(7) to increase the maximum annual fee payable by a fund family to \$80,000 to conform such fee to the maximum annual fee payable by a single Closed End Fund. The creation of this disparity between the fees was inadvertent and Nasdaq believes that it is reasonable for a fund family to be subject to the same maximum fee schedule than a single Closed-End Fund.

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<sup>3</sup> Securities Exchange Act Release No. 52277 (August 17, 2005), 70 FR 49347 (August 22, 2005) (approving SR-NASD-2005-96).

<sup>4</sup> Securities Exchange Act Release No. 73647 (November 19, 2014), 79 FR 70232 (November 25, 2014) (approving SR-NASDAQ-2014-87).

<sup>5</sup> Id.

In addition, Nasdaq proposes to amend Listing Rules IM-5910-1 and IM-5920-1 to clarify that a fund family subject to the All-Inclusive Annual Fee can aggregate shares in the same manner as a fund family subject to Nasdaq's standard annual fee.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a preliminary matter, Nasdaq competes for listings with other national securities exchanges and companies can easily choose to list on, or transfer to, those alternative venues. As a result, the fees Nasdaq can charge listed companies are constrained by the fees charged by its competitors and Nasdaq cannot charge prices in a manner that would be unreasonable, inequitable, or unfairly discriminatory.

Nasdaq believes that the proposed increase in the annual maximum fee payable by a fund family is reasonable and not unfairly discriminatory because such fee is not greater than the fee payable by a single Closed-End Fund that could be a part of the same fund family. The parity in such fees had previously been approved by the Commission.<sup>8</sup> The

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>8</sup> See footnote 3, supra.

proposed rule change makes no adjustments to the fee schedule applicable to the Closed-End Funds.

Nasdaq also believes that the proposed additional interpretive material merely clarifies, without changing the substance of the rules, Nasdaq's current position that a fund family subject to the All-Inclusive Annual Listing Fee schedule is subject to the same fee schedule as a single Closed-End Fund. These companies are particularly sensitive to the expenses they incur, given that they compete for investment dollars based on return. In addition, Closed-End Funds need to issue shares as a primary means to expand their businesses and raise additional money to invest. As such, Nasdaq believes that allowing a fund family to aggregate the shares outstanding of all Closed-End Funds listed on Nasdaq that are part of the fund family is reasonable and not inequitable or unfairly discriminatory.

Finally, Nasdaq believes that the proposed fees are consistent with the investor protection objectives of Section 6(b)(5) of the Act<sup>9</sup> in that they are designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest. Specifically, the fees are designed, in part, to ensure that there are adequate resources for Nasdaq's listing compliance program, which helps to assure that listing standards are properly enforced and investors are protected.

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

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<sup>9</sup> 15 U.S.C. 78f(b)(5).

Act, as amended. The market for listing services is extremely competitive and listed companies may freely choose alternative venues based on the aggregate fees assessed, and the value provided by each listing. This rule proposal does not burden competition with other listing venues, which are similarly free to set their fees. Moreover, the proposed rule merely conforms fees charged to similarly situated Nasdaq listed Closed-End Funds and fund families. For these reasons, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>10</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

#### IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2016-057 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-2016-057. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing

also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2016-057 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.<sup>11</sup>

Robert W. Errett  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).