

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSENAT-2024-32 on the subject line.

Paper Comments

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

All submissions should refer to file number SR-NYSENAT-2024-32. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSENAT-2024-32 and should be submitted on or before January 2, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101839; File No. SR-NASDAQ-2024-076]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Certain Fees Based on the Rate of Inflation

December 6, 2024

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 November 26, 2024, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange's fees based on the rate of inflation.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2025.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 adjust market data fees for inflation, to be operative on January 1, 2025.³

Many Nasdaq market data fees have not changed for years, some for over 15. As such, the fees have fallen substantially in real terms. The Exchange proposes to restore fees to the real amount intended in the original filings in a one-time inflationary adjustment. This adjustment will become operative in three parts: 45 percent in 2025; 30 percent in 2026; and the final 25 percent in 2027. The Exchange believes that it is necessary to spread the impact of this one-time adjustment for past inflation to prevent any undue impact that execution in a single tranche may have on our customers.⁴

The proposed fee increases will apply to ten product families within Nasdaq: (i) Distributor Fees; (ii) Short Interest; (iii) Depth of Book; (iv) Distribution Models; (v) FilterView; (vi) Nasdaq Last Sale; (vii) Nasdaq Share Volume; (viii) Nasdaq Basic; (ix) Daily Short Volume; and (x) MatchView. A detailed list of fee adjustments is set forth below. The Exchange is not proposing to adjust fees for non-professional usage, administrative fees, extranet fees, or certain categories of Non-Display usage. The Exchange plans to use this inflationary adjustment to support continued investment in innovative, high-quality data products.

Investments in Nasdaq Data Products

Nasdaq has continuously invested in its products in the period after the current fees were first instituted to accommodate the increasing amount of information processed and the changes in technology over time. It is reasonable and consistent with the Act for the Exchange to recoup its investments, at least in part, by adjusting its fees. Continuing to operate at fees frozen in time impacts the Exchange's ability to enhance its offerings and the interests of market participants and investors.

These investments have been necessary in part because of significant

³ This proposal was initially filed on November 12, 2024, as SR-Nasdaq-2024-069. On November 26, 2024, SR-Nasdaq-2024, SR-Nasdaq-2024-069 was withdrawn and replaced with the instant filing to provide certain additional information.

⁴ This proposal will adjust for inflation up to August 2024. Depending on inflation thereafter, further adjustments may, or may not, be necessary.

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

increases in the amount of information processed. The following message rate metrics for Nasdaq Basic illustrate this increase in throughput:

- *Peak Rate by Millisecond*: up approximately 141%
- *Average Rate per Millisecond*: up approximately 89%
- *Peak Rate per Second*: up approximately 25%
- *Average Rate per Second*: up approximately 23%
- *Peak Total Messages*: up approximately 209%
- *Average Total Messages*: up approximately 121%
- *Average Daily Volume*: up approximately 82%
- *Maximum Message Count*: up approximately 209%

With this increase in message traffic, the Exchange expended significant resources to improve its market data products to meet customer expectations, including continued investment in all aspects of the technology ecosystem (e.g., software, hardware, and network). During the period between 2018 and 2023, advancements in system performance as measured by latency not only accommodated the high message traffic volumes but stayed well ahead of it. The following latency metrics⁵ illustrate the increase in message processing speed, despite the significant message traffic growth:

- Median: down approximately 22%
- Average: down approximately 28%
- Max: down approximately 29%

The Exchange continues to invest in enhancing its technology for the benefit and often at the behest of its customers. Yet the Exchange has not adjusted any of the fees included in this proposal for many years (as set forth below), to even partially offset the costs of maintaining and enhancing its market data offerings.

Inflationary Index

The fee increases the Exchange proposes are based on an industry-specific Producer Price Index (PPI), which is a tailored measure of inflation.⁶ As a general matter, the Producer Price Index is a family of indexes that measures the average change over time in selling prices received by domestic producers of goods and services, measuring price change from the perspective of the seller. This contrasts with other metrics, such as the Consumer Price Index (CPI),

that measure price change from the purchaser's perspective.⁷

About 10,000 PPIs for individual products and groups of products are tracked and released each month.⁸ PPIs are available for the output of nearly all industries in the goods-producing sectors of the U.S. economy—mining, manufacturing, agriculture, fishing, and forestry—as well as natural gas, electricity, and construction, among others. The PPI program covers approximately 69 percent of the service sector's output, as measured by revenue reported in the 2017 Economic Census.

For purposes of this proposal, the relevant industry-specific PPI is the Data Processing and Related Services PPI (“Data Processing PPI”), which is an industry net-output PPI that measures the average change in selling prices received by companies that provide data processing services. The Data Processing PPI was introduced in January 2002 by the Bureau of Labor Statistics (BLS) as part of an ongoing effort to expand Producer Price Index coverage of the services sector of the U.S. economy and is identified as NAICS—518210 in the North American Industry Classification System.⁹ According to the BLS “[t]he primary output of NAICS 518210 is the provision of electronic data processing services. In the broadest sense, computer services companies help their customers efficiently use technology. The processing services market consists of vendors who use their own computer systems—often utilizing proprietary software—to process customers’ transactions and data. Companies that offer processing services collect, organize, and store a customer’s transactions and other data for record-keeping purposes. Price movements for the NAICS 518210 index are based on changes in the revenue received by companies that provide data processing services. Each month, companies provide net transaction prices for a specified service. The transaction is an actual contract selected by probability, where the price-determining characteristics are held constant while the service is repriced. The prices used in index calculation are the actual prices billed for the selected service contract.”¹⁰

The Exchange believes the Data Processing PPI is an adequate measure to for adjusting fees for its proprietary

market data products because the Exchange uses its “own computer systems” and “proprietary software,” i.e., its own data center and proprietary matching engine software, respectively, to collect, organize, store and report customers’ transactions in U.S. equity securities.¹¹

The Exchange furthermore notes that the Data Processing PPI is a stable metric with limited volatility, unlike other consumer-side inflation metrics. The Data Processing PPI has not experienced a greater than 2.16% increase for any one calendar year period since Data Processing PPI was introduced into the PPI in January 2002. The average calendar year change from January 2002 to December 2023 was 0.62%, with a cumulative increase of 15.67% over this 21-year period.

The Exchange notes that other exchanges have filed for increases in certain fees, based in part on the rate of inflation.¹²

Calculation and Proposed Fee Changes

The proposed inflationary adjustments are based on a comparison of the Data Processing PPI index on the last date that the relevant fee was adjusted with the level of the Data Processing PPI index on August 1, 2024. For example, for a fee that was last changed on September 1, 2010, the Exchange divided the difference between the Data Processing PPI index on August 2024 (116.022) and the Data Processing PPI index in September 2010 (101.7) by the Data Processing PPI index in September 2010 (101.7), to calculate a total inflationary adjustment of 14 percent to obtain the percentage increase. That percentage increase was then applied to the prior fee to determine the proposed fee, and then rounding the result.¹³ This calculation was repeated for each market data fee.

¹¹ The Exchange notes that the Bureau of Labor Statistics uses a number of measures of inflation that may apply to Exchange market data. For example, there is also an inflation measure related to PPI industry data for data processing, hosting, and related services: Hosting, ASP, and other IT infrastructure provisioning services. This other measure has been used by other SROs in determining price changes and may provide an alternative point of reference.

¹² See, e.g., Securities Exchange Act Release Nos. 34–100004 (April 22, 2024), 89 FR 32465 (April 26, 2024) (SR–CboeBYX–2024–012); and 34–100398 (June 21, 2024), 89 FR 53676 (June 27, 2024) (SR–BOX–2024–16); Securities Exchange Act Release No. 100994 (September 10, 2024), 89 FR 75612 (September 16, 2024) (SR–NYSEARCA–2024–79).

¹³ The Exchange rounded fees as follows: fee values over \$999.99 were rounded to the nearest \$10; fees between \$99.99 and \$999.99 were rounded to the nearest dollar; fees between \$9.99 and \$99.99 were rounded to the nearest \$0.50; fees less than \$9.99 were rounded to the nearest \$0.10. Where rounding would have caused the proposed fee to

⁷ See <https://www.bls.gov/ppi/overview.htm>.

⁸ See <https://www.bls.gov/ppi/overview.htm>.

⁹ NAICS appears in table 5 of the PPI Detailed Report and is available at <https://data.bls.gov/timeseries/PCU518210518210>.

¹⁰ See <https://www.bls.gov/ppi/factsheets/producer-price-index-for-the-data-processing-and-related-servicesindustry-naics-518210.htm>.

⁵ These measurements compare the time difference between events on the matching engine and the time these events are published.

⁶ See <https://fred.stlouisfed.org/series/PCU51825182#0>.

As noted above, the Exchange proposes to adjust fees through a one-time inflationary adjustment to be executed in three tranches: one in 2025 that will cover 45 percent of the

adjustment, another in 2026 to cover an additional 30 percent, and a final tranche in 2027 for the final 25 percent of the adjustment.

Table 1 below shows the proposed changes for 2025, 2026 and 2027, the date of the last fee change, and the overall adjustment:

TABLE 1—PROPOSED INFLATIONARY ADJUSTMENT

Product	Current	2025	2026	2027	Last change	Overall percent change ¹⁴
Market Data Distributor Fees						
Direct Access Fee (Nasdaq)	\$2,000	\$2,125	\$2,224	\$2,281	¹⁵ 9/1/2010	14.1
Direct Access Fee (Non-Nasdaq)	1,000	1,065	1,116	1,141	¹⁶ 9/1/2010	14.1
Internal Distributor Fee (Nasdaq)	1,000	1,070	1,125	1,162	¹⁷ 7/1/2006	16.2
Internal Distributor Fee (Non-Nasdaq)	500	540	565	581	¹⁸ 7/1/2006	16.2
External Distributor Fee (Nasdaq)	2,500	2,680	2,820	2,906	¹⁹ 7/1/2006	16.2
External Distributor Fee (Non-Nasdaq)	1,250	1,340	1,410	1,453	²⁰ 7/1/2006	16.2
Short Interest Report						
Access Fee	500	520	535	543	²¹ 7/1/2017	²² 8.6
Internal Distribution	1,000	1,040	1,070	1,087	²³ 7/1/2017	8.7
External Distribution (1–499 Subscribers)	2,500	2,600	2,680	2,718	²⁴ 7/1/2017	8.7
External Distribution (500–9,999 Subscribers)	5,000	5,200	5,350	5,437	²⁵ 7/1/2017	8.7
External Distribution (10,000+ Subscribers)	7,500	7,800	8,030	8,155	²⁶ 7/1/2017	8.7
External Distribution (Enterprise License)	1,500	1,560	1,610	1,631	²⁷ 7/1/2017	8.7
Depth-of-Book Data						
Level 2 Pro	76	80.50	84.00	86.00	²⁸ 3/1/2012	²⁹ 13.2
TotalView Pro	76	80.50	84.00	86.00	³⁰ 3/1/2012	³¹ 13.2
Non-Display (1–39 Subscribers)	375	396	412	421	³² 1/1/2016	³³ 12.3
Non-Display (40–99 Subscribers)	15,000	15,840	16,490	16,863	³⁴ 1/1/2016	12.4
Non-Display (100–249 Subscribers)	30,000	31,680	32,990	33,727	³⁵ 1/1/2016	12.4
Trading Platform Fee	5,000	5,270	5,480	5,600	³⁶ 12/1/2014	³⁷ 12.0
Trading Platform Fee Threshold	15,000	15,810	16,440	16,800	³⁸ 12/1/2014	³⁹ 12.0
Distribution Models						
Enhanced Display Solutions (EDS) (1–399)	4,000	4,220	4,390	4,479	⁴⁰ 11/1/2014	12.0
Enhanced Display Solutions (400–999)	7,500	7,910	8,230	8,399	⁴¹ 11/1/2014	12.0
Enhanced Display Solutions (1,000+)	15,000	15,810	16,440	16,798	⁴² 11/1/2014	12.0
Enhanced Display Solutions Professional	80	84.50	88.00	89.50	⁴³ 11/1/2014	⁴⁴ 11.9
Enhanced Display Solutions Enterprise License	33,500	34,990	36,150	36,806	⁴⁵ 2/1/2017	9.9
Enterprise License Professional	76	80.50	84.00	86.00	⁴⁶ 3/1/2012	⁴⁷ 13.2
Managed Data Solution per Distributor	2,500	2,640	2,750	2,810	⁴⁸ 1/1/2016	12.4
Managed Data Solution per Professional	375	396	412	421	⁴⁹ 1/1/2016	⁵⁰ 12.3
FPGA Internal	25,000	26,570	27,790	28,490	⁵¹ 5/1/2012	14.0
FPGA External	2,500	2,660	2,780	2,849	⁵² 5/1/2012	14.0
FGPA Internal and External	27,500	29,230	30,570	31,339	⁵³ 5/1/2012	14.0
Managed Data Solution Administration Fee first Subscriber	5,000	5,280	5,500	5,621	⁵⁴ 1/1/2016	12.4
Managed Data Solution Administration Fee additional Subscribers	750	792	825	843	⁵⁵ 1/1/2016	12.4
FilterView Service						
FilterView	750	780	803	815	⁵⁶ 12/1/2017	8.7
Nasdaq Last Sale (NLS)						
NLS per Subscriber (Nasdaq—Specialized Use)	13	13.50	14.10	14.50	⁵⁷ 1/1/2014	⁵⁸ 11.5
NLS per Subscriber (non-Nasdaq—Specialized Use)	13	⁵⁹ 13.80	14.40	14.50	⁶⁰ 1/1/2014	⁶¹ 11.5
NLS Distributor	1,500	1,600	1,680	1,724	⁶² 7/1/2008	⁶³ 14.9
NLS Distributor (Specialized Use)	2,000	2,080	2,140	2,170	⁶⁴ 1/1/2018	⁶⁵ 8.5
Nasdaq Share Volume Service						
Access Fee	2,500	2,680	2,820	2,897	⁶⁶ 2/1/2007	15.9

exceed the rate of inflation, the Exchange rounded downward.

TABLE 1—PROPOSED INFLATIONARY ADJUSTMENT—Continued

Product	Current	2025	2026	2027	Last change	Overall percent change ¹⁴
Nasdaq Basic						
Subscriber Fee (Nasdaq)	13	13.50	14.10	14.50	⁶⁷ 1/1/2014	⁶⁸ 11.5
Subscriber Fee (NYSE)	6.50	6.90	7.20	7.25	⁶⁹ 1/1/2014	⁷⁰ 11.5
Subscriber Fee (Other)	6.50	6.90	7.20	7.25	⁷¹ 1/1/2014	⁷² 11.5
Distributor Fee (Internal)	1,500	1,600	1,680	1,723	⁷³ 1/1/2009	14.9
Distributor Fee (External)	2,000	2,080	2,140	2,170	⁷⁴ 1/1/2018	⁷⁵ 8.5
Nasdaq Daily Short Volume and Monthly Short Sale Transaction Files						
Internal Distribution	750	783	809	824	⁷⁶ 1/1/2017	9.9
External Distribution	1,250	1,300	1,340	1,373	⁷⁷ 1/1/2017	⁷⁸ 9.8
Nasdaq MatchView Feed						
One Server	5,000	5,310	5,550	5,687	⁷⁹ 10/1/2011	13.7
Two or more Servers	10,000	10,620	11,100	11,374	⁸⁰ 10/1/2011	13.7

2. Statutory Basis

The Exchange believes that its proposal to change fees is consistent

¹⁴ The overall percentage change is determined by the Data Processing PPI index, as discussed above. In a few instances, the overall percentage change is below the Data Processing PPI index due to rounding. Such instances are footnoted below.

¹⁵ See Securities Exchange Act Release No. 62907 (September 14, 2010), 75 FR 57324 (September 20, 2010) (SR–Nasdaq–2010–110).

¹⁶ See *id.*

¹⁷ See Securities Exchange Act Release No. 54179 (July 20, 2006), 71 FR 42428 (July 26, 2006) (SR–Nasdaq–2006–013).

¹⁸ See *id.*

¹⁹ See *id.*

²⁰ See *id.*

²¹ See Securities Exchange Act Release No. 81256 (July 28, 2017), 82 FR 36168 (August 3, 2017) (SR–Nasdaq–2017–077).

²² The change as calculated by the Data Processing PPI index is 8.7%. The actual change is 8.6% due to rounding of the fee.

²³ See Securities Exchange Act Release No. 81256 (July 28, 2017), 82 FR 36168 (August 3, 2017) (SR–Nasdaq–2017–077).

²⁴ See *id.*

²⁵ See *id.*

²⁶ See *id.*

²⁷ See *id.*

²⁸ See Securities Exchange Act Release No. 66740 (April 5, 2012), 77 FR 21609 (April 10, 2012) (SR–Nasdaq–2012–042).

²⁹ The change as calculated by the Data Processing PPI index is 13.6%. The actual change is 13.2% due to rounding of the fee.

³⁰ See Securities Exchange Act Release No. 66740 (April 5, 2012), 77 FR 21609 (April 10, 2012) (SR–Nasdaq–2012–042).

³¹ The change as calculated by the Data Processing PPI index is 13.6%. The actual change is 13.2% due to rounding of the fee.

³² See Securities Exchange Act Release No. 76779 (December 28, 2015), 81 FR 131 (January 4, 2016) (SR–Nasdaq–2015–157).

³³ The change as calculated by the Data Processing PPI index is 12.4%. The actual change is 12.3% due to rounding of the fee.

³⁴ See Securities Exchange Act Release No. 76779 (December 28, 2015), 81 FR 131 (January 4, 2016) (SR–Nasdaq–2015–157).

³⁵ See *id.*

³⁶ See Securities Exchange Act Release No. 73978 (January 2, 2015), 80 FR 1057 (January 8, 2015) (SR–Nasdaq–2014–125).

³⁷ The change as calculated by the Data Processing PPI index is 12.1%. The actual change is 12.0% due to rounding of the fee.

³⁸ See Securities Exchange Act Release No. 73978 (January 2, 2015), 80 FR 1057 (January 8, 2015) (SR–Nasdaq–2014–125).

³⁹ The change as calculated by the Data Processing PPI index is 12.1%. The actual change is 12.0% due to rounding of the fee.

⁴⁰ See Securities Exchange Act Release No. 73807 (December 10, 2014), 79 FR 74784 (December 16, 2014) (SR–Nasdaq–2014–117).

⁴¹ See *id.*

⁴² See *id.*

⁴³ See *id.*

⁴⁴ The change as calculated by the Data Processing PPI index is 12.0%. The actual change is 11.9% due to rounding of the fee.

⁴⁵ See Securities Exchange Act Release No. 80015 (February 10, 2017), 82 FR 10944 (February 16, 2017) (SR–Nasdaq–2017–007).

⁴⁶ See *id.*

⁴⁷ The change as calculated by the Data Processing PPI index is 13.6%. The actual change is 13.2% due to rounding of the fee.

⁴⁸ See Securities Exchange Act Release No. 76797 (December 30, 2015), 81 FR 544 (January 6, 2016) (SR–Nasdaq–2015–158).

⁴⁹ See Securities Exchange Act Release No. 76779 (December 28, 2015), 81 FR 131 (January 4, 2016) (SR–Nasdaq–2015–157).

⁵⁰ The change as calculated by the Data Processing PPI index is 12.4%. The actual change is 12.3% due to rounding of the fee.

⁵¹ See Securities Exchange Act Release No. 76297 (June 28, 2012), 77 FR 39752 (July 5, 2012) (SR–Nasdaq–2012–063).

⁵² See *id.*

⁵³ See *id.*

⁵⁴ See Securities Exchange Act Release No. 76797 (December 30, 2015), 81 FR 544 (January 6, 2016) (SR–Nasdaq–2015–158).

⁵⁵ See *id.*

⁵⁶ See Securities Exchange Act Release No. 82467 (January 9, 2018), 83 FR 2261 (January 16, 2018) (SR–Nasdaq–2017–134).

⁵⁷ Nasdaq Last Sale (specialized use case) was instituted in 2018. See Securities Exchange Act Release No. 82723 (February 15, 2018), 83 FR 3790

(February 22, 2018) (SR–Nasdaq–2018–010). At that time, fees were set to be the equivalent of Nasdaq Basic fees set in 2014. See Securities Exchange Act Release No. 71507 (February 7, 2014), 79 FR 8763 (February 13, 2014) (SR–Nasdaq–2014–011). In order to ensure that these fees remained aligned as intended by the 2018 filing, we are using the 2014 date, when the Nasdaq Basic fees were first set, to calculate the inflationary adjustment.

⁵⁸ Fees for NLS (Specialized Use Case) were designed to be equivalent to Nasdaq Basic Fees. The PPI adjustment for Nasdaq Basic is 12.3%. The fee adjustment for NLS Specialized Use Case is 11.5%.

⁵⁹ The fees for NLS (non-Nasdaq—Specialized Use Case for 2025, 2026 and 2027 are being adjusted to remain equivalent to the Subscriber fees for Nasdaq Basic. See Equity 7, Section 147(a)(1). As discussed in note 49 below, the fees for NLS Specialized Use Case were intended to be the same as the fees for Nasdaq Basic. See Securities Exchange Act Release No. 82723 (February 15, 2018), 83 FR 7812 (February 22, 2018) (SR–Nasdaq–2018–010).

⁶⁰ Nasdaq Last Sale (specialized use case) was instituted in 2018. See Securities Exchange Act Release No. 82723 (February 15, 2018), 83 FR 7812 (February 22, 2018) (SR–Nasdaq–2018–010). At that time, fees were set to be the equivalent of Nasdaq Basic fees set in 2014. See Securities Exchange Act Release No. 71507 (February 7, 2014), 79 FR 8763 (February 13, 2014) (SR–Nasdaq–2014–011). In order to ensure that these fees remained aligned as intended by the 2018 filing, we are using the 2014 date, when the Nasdaq Basic fees were first set, to calculate the inflationary adjustment.

⁶¹ Fees for NLS (Specialized Use Case) were designed to be equivalent to Nasdaq Basic Fees. The PPI adjustment for Nasdaq Basic is 12.3%. The fee adjustment for NLS Specialized Use Case is 11.5%.

⁶² See Securities Exchange Act Release No. 55255 (February 8, 2007), 72 FR 7100 (February 14, 2007) (SR–Nasdaq–2006–060).

⁶³ The change as calculated by the Data Processing PPI index is 15.0%. The actual change is 14.9% due to rounding of the fee.

⁶⁴ As noted above, the Nasdaq Last Sale (specialized use case) was instituted in 2018. See Securities Exchange Act Release No. 82723 (February 15, 2018), 83 FR 7812 (February 22, 2018) (SR–Nasdaq–2018–010). At that time, fees were set to be the equivalent of Nasdaq Basic fees. The Nasdaq Basic external distributor fee was set in January of 2018. See Securities Exchange Act Release No. 82541 (January 19, 2018), 83 FR 3790 (January 26, 2018) (SR–Nasdaq–2018–004). To

with Section 6(b) of the Act,⁸¹ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁸² in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

This belief is based on two factors. First, the current fees do not properly reflect the quality of the services and products, as fees for the services and products in question have been static in nominal terms, and therefore falling in real terms due to inflation. Second, the Exchange believes that investments made in enhancing the capacity of Exchange systems have increased the performance of the services and products notwithstanding fees having remained static in nominal terms.

Equitable Allocation of Reasonable Dues, Fees and Other Charges

The proposed changes are an equitable allocation of reasonable dues, fees, and other charges because, as noted above, the Exchange has not

maintain equivalence of NLS (specialized use case) fees and Nasdaq Basic, we used the 2018 date for the inflationary adjustment.

⁶⁵ The change as calculated by the Data Processing PPI index is 8.6%. The actual change is 8.5% due to rounding of the fee.

⁶⁶ See Securities Exchange Act Release No. 55444 (March 12, 2007), 72 FR 12648 (March 16, 2007) (SR–Nasdaq–2007–006).

⁶⁷ See Securities Exchange Act Release No. 71507 (February 7, 2014), 79 FR 8763 (February 13, 2014) (SR–Nasdaq–2014–011).

⁶⁸ The change as calculated by the Data Processing PPI index is 12.3%. The actual change is 11.5% due to rounding of the fee.

⁶⁹ See *id.*

⁷⁰ The change as calculated by the Data Processing PPI index is 12.3%. The actual change is 11.5% due to rounding of the fee.

⁷¹ See *id.*

⁷² The change as calculated by the Data Processing PPI index is 12.3%. The actual change is 11.5% due to rounding of the fee.

⁷³ Securities Exchange Act Release No. 59244 (January 13, 2009), 74 FR 4065 (January 22, 2009) (SR–Nasdaq–2008–102).

⁷⁴ Securities Exchange Act Release No. 82541 (January 19, 2018), 83 FR 3790 (January 26, 2018) (SR–Nasdaq–2018–004).

⁷⁵ The change as calculated by the Data Processing PPI index is 8.7%. The actual change is 8.5% due to rounding of the fee.

⁷⁶ See Securities Exchange Act Release No. 79617 (December 20, 2016), 81 FR 95213 (December 27, 2016) (SR–Nasdaq–2016–168).

⁷⁷ See *id.*

⁷⁸ The change as calculated by the Data Processing PPI index is 9.9%. The actual change is 9.8% due to rounding of the fee.

⁷⁹ Securities Exchange Act Release No. 65525 (October 11, 2011), 76 FR 64158 (October 17, 2011) (SR–Nasdaq–2011–139).

⁸⁰ See *id.*

⁸¹ 15 U.S.C. 78f(b).

⁸² 15 U.S.C. 78f(b)(4) and (5).

increased any of the fees included in the proposal since the dates indicated in Table 1. In the years following the last fee increase, the Exchange has made significant investments in upgrades to Exchange systems and enhancing the quality of its services as measured by, among other things, increased throughput. As such, Exchange customers have benefitted while the Exchange's ability to recoup its investments has been hampered, and Exchange fees have fallen in real terms during the relevant period.

Between 2018 and 2023, for example, the overall inflation rate was an average of 3.93% per year, producing a cumulative inflation rate of 21.28%.⁸³ Using the more targeted inflation number of Data Processing PPI, the cumulative inflation rate was 8.07%.⁸⁴ The Exchange believes the Data Processing PPI is a reasonable metric for this fee increase because it is targeted to producer-side increases in the data processing industry, which, based on the definition adopted by BLS, would include the Exchange's market data products. Notwithstanding this inflation, the Exchange has not increased its fees for the subject services for the period of time indicated in Table 1, and therefore the proposed fee changes represent a reasonable increase from the current fees.

The Exchange believes the proposed fee increase is reasonable in light of the Exchange's continued expenditure in maintaining a robust technology ecosystem. The Exchange continues to invest in maintaining and enhancing its market data products for the benefit and often at the behest of its customers and global investors. Such enhancements include refreshing all aspects of the technology ecosystem including software, hardware, and network while introducing new and innovative products. The goal of these enhancements, among other things, is to provide faster and more consistent market data products. The Exchange continues to expend resources to innovate and modernize technology so that it may benefit its members in offering its market data products.

The Proposal Does Not Permit Unfair Discrimination

The proposed fee increases are not unfairly discriminatory because they would apply to all data recipients that choose to purchase the market data products identified above. Any person

that chooses to purchase any of these products would be subject to the same fee schedule, regardless of what type of business they operate or the use they plan to make of the data feed. Additionally, the fee increase would be applied uniformly to subscribers without regard to Exchange membership status or the extent of any other business with the Exchange or affiliated entities.

The proposed changes are also not unfairly discriminatory because the fees would be assessed uniformly across all market participants that purchase these products in the same manner they are today, and all products will remain available for purchase by all market participants.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the fee schedule would continue to apply to all customers of the market data products identified above in the same manner as it does today, albeit at inflation-adjusted rates for certain fees, and customers may choose whether to subscribe to the feed at all. The Exchange also believes that the level of the proposed fees neither favors nor penalizes any one or more categories of market participants in a manner that would impose an undue burden on competition.

Intermarket Competition

The proposed fees do not impose a burden on competition or on other Self Regulatory Organizations that is not necessary or appropriate. In determining the proposed fees, the Exchange utilized an objective and stable metric with limited volatility. Utilizing Data Processing PPI over a specified period of time is a reasonable means of recouping the Exchange's investment in maintaining and enhancing the market data products identified above. The Exchange believes utilizing Data Processing PPI, a tailored measure of inflation, to increase certain market data fees to recoup the Exchange's investment in maintaining and enhancing its market data products would not impose a burden on competition.

⁸³ See <https://www.officialdata.org/us/inflation/2019?endYear=2023&amount=1>.

⁸⁴ See <https://data.bls.gov/timeseries/PCU518210518210>.

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.⁸⁵

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2024-076 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NASDAQ-2024-076. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2024-076 and should be submitted on or before January 2, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸⁶

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101830; File No. SR-NYSEAMER-2024-75]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Rule 342

December 6, 2024.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on December 3, 2024, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 342 to add clarity to the process for a broker-dealer to become or remain a

member organization notwithstanding a statutory disqualification. The proposed rule change is available on the Exchange's website at www.nyse.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 self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

The Exchange proposes to amend Rule 342 to add clarity to the process to the process for a broker-dealer to become or remain a member organization notwithstanding a statutory disqualification.

Background and Proposed Rule Filing

Section 3(a)(39) of the Act defines the term "statutory disqualification" and the circumstances that can cause a person (either a Member, or a person associated with a Member) to be subject to a statutory disqualification.⁴ Absent relief, a statutory disqualification would preclude a broker-dealer or person associated with a broker-dealer from certain activities, including membership in a self-regulatory organization ("SRO").

There is, however, a well-established process through which a broker-dealer (or a person associated with a broker-dealer) may continue to operate in the securities industry (and either become a member of, or continue as a member of, one or more SROs) despite being subject to a statutory disqualification.⁵ In particular, SEC Rule 19h-1⁶ describes several ways an SRO may seek relief for a member (or prospective member) that is subject to a statutory disqualification,

⁴ 15 U.S.C. 78c(a)(39).

⁵ See FINRA Regulatory Notice 09-19 ("Amendments to FINRA Rule 9520 Series to Establish Procedures Applicable to Firms and Associated Persons Subject to Certain Statutory Disqualifications").

⁶ 17 CFR 240.19h-1.

⁸⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁸⁵ 15 U.S.C. 78s(b)(3)(A)(ii).