

outbreak on ETP Holders' operations by allowing them to keep principal positions filled and minimizing disruptions to client services and other critical responsibilities. The Exchange further stated that the ongoing extenuating circumstances of the COVID-19 pandemic make it impractical to ensure that individuals designated to act in these capacities are able to take and pass the appropriate qualification examination during the 120-calendar day period required under the rules. The Exchange also explained that shelter-in-place orders, quarantining, restrictions on business and social activity and adherence to social distancing guidelines consistent with the recommendations of public officials remain in place in various states.²¹ In addition, the Exchange observed that, following a nationwide closure of all test centers earlier in the year, some test centers have re-opened, but are operating at limited capacity or are only delivering certain examinations that have been deemed essential by the local government.²² Although, as the Exchange noted, FINRA has launched an online test delivery service to help address this backlog, the General Securities Principal (Series 24) Examination is not available online.²³ Nevertheless, the Exchange explained that the proposed rule change will provide needed flexibility to ensure that these positions remain filled and is tailored to address the constraints on ETP Holders' operations during the COVID-19 pandemic without significantly compromising critical investor protection.²⁴

The Commission observes that the Exchange's proposal, like the FINRA Filing, provides only an extension to temporary relief from the requirement to pass certain qualification examinations within the 120-day period in the rules. As proposed, this relief would extend the 120-day period that certain individuals can function as principals through April 30, 2021. If a further extension of temporary relief from the rule requirements identified in this proposal beyond April 30, 2021 is required, the Exchange noted that it may submit a separate rule filing to extend the effectiveness of the temporary relief

under these rules.²⁵ For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest.²⁶ Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.²⁷

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSENAT-2020-38 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-2020-38. 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 (<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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSENAT-2020-38 and should be submitted on or before January 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Eduardo A. Aleman,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90772; File No. SR-NASDAQ-2020-088]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Withdraw the Exchange's QView Product From Sale

December 22, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 14, 2020, 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 and II 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.

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²¹ See *supra* note 15.

²² See *supra* notes 12 and 13. The Exchange states that Prometric has also had to close some reopened test centers due to incidents of COVID-19 cases.

²³ See *supra* note 14. FINRA is considering making additional qualification examinations available remotely on a limited basis.

²⁴ The Exchange states that ETP Holders remain subject to the continued requirement to supervise the activities of these designated individuals and ensure compliance with federal securities laws and regulations, as well as NYSE National rules.

²⁵ See *supra* note 4.

²⁶ As noted above by NYSE National, this proposal is an extension of temporary relief provided in a prior filing where NYSE National also requested and the Commission granted a waiver of the 30-day operative delay. See *supra* note 10, 85 FR at 65118.

²⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

The Exchange proposes to withdraw the Exchange's QView product from sale.

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 withdraw QView from sale due to low customer demand.

QView

QView is a web-based user interface that displays execution and open order information in a user-friendly format.³ It is a type of dashboard that displays information regarding the number of executions and their dollar value, executions by symbol, total volume, whether an order has been added or removed, whether the order is for a buy or a sell, whether an order is open, and information related to routing strategies. Information can be tracked in real-time and through historical order and execution summaries, and is available on a daily or a monthly basis.

As a dashboard, QView presents information in a convenient and easy-to-read format, and provides analytic tools

³ See Securities Exchange Act Release No. 65851 (November 30, 2011), 76 FR 75924 (December 5, 2011) (SR-Nasdaq-2011-157) (introducing the QView product); see also Securities Exchange Act Release No. 66636 (March 21, 2012), 77 FR 18280 (March 27, 2012) (SR-NASDAQ-2012-035) (introducing QView fees). For additional technical details on QView as well as screen shots, see QView Order and Execution Management & Latency Optics, available at <http://www.nasdaqtrader.com/Trader.aspx?id=QView>.

to help the user understand that information. It is not, however, the only source for the underlying data, which is provided by TradeInfo.⁴ TradeInfo is also a web-based tool, and presents the member with detailed data on the status of orders, executions, cancels and breaks, generates reports for download, and allows the member to cancel or correct open orders. QView and TradeInfo are designed to work together. QView provides summary information, and TradeInfo provides the underlying data that supports that summary information. TradeInfo is complementary as part of the Nasdaq workstation, or may be purchased separately for a fee of \$95 per user per month.

QView is offered with the Latency Optics add-on service, which compares three types of latency to Nasdaq averages: (i) The roundtrip time between order entry and receipt of acknowledgement; (ii) roundtrip time between order entry and the time that the order appears on the TotalView ITCH multicast feed; and (iii) the roundtrip time between the entry of an order cancellation request and the time that the message in reply is received by the client device.⁵ Data is displayed graphically and in table format, and may be segregated by MPID or ports.

Proposed Withdrawal

Nasdaq proposes to withdraw QView because of low customer demand. QView was introduced in December 2011,⁶ and, owing to the age of the product, the seventeen servers required to support QView will reach the end of their useful life at the end of this year. In light of low customer demand—only 10 firms currently purchase QView, of which only two purchase the Latency Optics add-on service, and further sales do not appear to be forthcoming⁷—the

⁴ See Equity 7, Section 115(f).

⁵ The user of TradeInfo will be able to calculate these latencies for itself, as the underlying transaction information is timestamped.

⁶ See Securities Exchange Act Release No. 65851 (November 30, 2011), 76 FR 75924 (December 5, 2011) (SR-Nasdaq-2011-157) (introducing the QView product); see also Securities Exchange Act Release No. 66636 (March 21, 2012), 77 FR 18280 (March 27, 2012) (SR-NASDAQ-2012-035) (introducing QView fees); Securities Exchange Act Release No. 68617 (January 10, 2013), 78 FR 3480 (January 16, 2013) (SR-Nasdaq-2013-005) (introducing the Latency Optics add-on).

⁷ Staff Guidance on SRO Filings Related to Fees states that the Purpose section should include “the projected number of purchasers (including members, as well as non-members) of any new or modified product or service and the expected number of purchasers likely to be subject to a new fee or pricing tier, including members and non-members. . . .” See Division of Trading and Markets, U.S. Securities and Exchange Commission, “Staff Guidance on SRO Filings Related to Fees”

additional investment required to replace these servers is not economically viable.

Nasdaq does not expect the withdrawal of QView to significantly impact any of its current customers. As noted, QView (including Latency Optics) is a dashboard that summarizes information in a convenient, user-friendly format, but the underlying data supporting the QView display will remain available on TradeInfo. Nasdaq has discussed its proposed withdrawal with each of the 10 current purchasers, and none indicated that it was essential for their business. Indeed, all 10 purchasers indicated that their actual usage was low, and did not expect to continue using the product. Nasdaq publicly announced its intent to withdraw QView as of December 31, 2020, in a Data News publication issued on October 14, 2020,⁸ and received no feedback concerning additional demand for the product. There will be no interruption in the ability of current customers to see the status of orders, executions, cancels and breaks, generate reports for download, or cancel or correct open orders, as all of the data presented in QView will remain available through TradeInfo. The “dashboard” functions of QView that provide a user-friendly interface and summary statistics can be replaced by the member with any number of similar, commercially available dashboards or other products that summarize data.

QView was designed to provide summary statistics on trade executions to broker-dealers in a convenient, user-friendly format. All of the data needed to generate that summary information, including the Latency Optics add-on service,⁹ will remain available to Nasdaq customers via TradeInfo, which allows users to generate reports and download the data using Microsoft Excel. Once the user has the data on Excel, the user would be able to use commercially available programs or proprietary software to generate the charts, graphs and summary statistics previously generated by QView. All of

(May 21, 2019) (“Staff Guidance”), available at <https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees>. It also states that “[w]hen a Fee Filing changes an existing fee, the purpose section also should compare the projected number of purchasers likely to be subject to the proposed fee following the proposed fee change and the expected cost of the proposed fee for different types of firms. . . .” As indicated, there are 10 firms that currently purchase QView, of which two firms purchase the Latency Optics add-on service, and no new firms are projected to purchase this product, even if it were not withdrawn.

⁸ See Nasdaq Data News No. 2020-9 (October 14, 2020), available at <https://www.nasdaqtrader.com/TraderNews.aspx?id=dn2020-9>.

⁹ See *supra* note 5.

the 10 current QView customers already have access to TradeInfo.¹⁰

Withdrawal of QView will not have a different impact on different types of market participants.¹¹ All of the basic data needed for current customers to replicate the product and manage trading activity and monitor latency is available through TradeInfo and Trading Insights. Current customers were unconcerned with withdrawal, and indicated that they did not intend to continue using the product. Broker-dealers that do not currently purchase QView will not be affected by its absence. No other market participants will be affected, as the product was designed exclusively for broker-dealers that manage order flow.

Thus, Nasdaq proposes to withdraw QView based on lack of demand, and does not expect the withdrawal to negatively impact current customers, based on their feedback.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Section 6(b)(5) of the Act,¹³ in particular, in that it is designed to

¹⁰ One of the two current purchasers of the Latency Optics add-on service indicated that it intends to obtain similar information through Trading Insights. Nasdaq Trading Insights is an optional market data service that employs advanced analytics and machine learning to analyze order activity. It is comprised of three active market data components: (a) Missed Opportunity—Liquidity; (b) Missed Opportunity—Latency; and (c) Peer Benchmarking. The Missed Opportunity—Liquidity component identifies when an order from a market participant could have been increased in size, resulting in the execution of additional shares. This component is designed to provide information to a market participant interested in gaining insight into hidden pockets of liquidity. The Missed Opportunity—Latency component identifies the amount of time by which an otherwise marketable order missed execution. This component is designed to provide information to market participants interested in optimizing their models and trading patterns. The Peer Benchmarking component ranks the quality of a market participant's trading performance against its peers, allowing market participants to view their relative trading performance by port, with each port ranked independently by each metric against the ports of peer firms trading on the Exchange. See Equity 7, Section 146; Securities Exchange Act Release No. 80856 (June 5, 2017), 82 FR 26820 (June 9, 2017) (SR-NASDAQ-2017-051). Trading Insights can be used by the customer to place the latency information that it calculates using TradeInfo in context by comparing its performance against others.

¹¹ Staff Guidance also states that the Purpose section should identify "how the fee may apply differently (e.g., additional cost vs. additional discount) to different types of market participants (e.g., market makers, institutional brokers, retail brokers, vendors, etc.) and different sizes of market participants (e.g., large, medium or small entity. . . ."

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

promote just and equitable principles of trade, 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.

QView was designed to facilitate the work of broker-dealers executing orders on the Exchange, and its usefulness depended on its effectiveness in helping the broker-dealer manage order flow. Nasdaq proposes to withdraw QView because low customer demand has rendered the product no longer economically viable. Withdrawing a product that has been determined to not be economically viable in a competitive marketplace promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

The Proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Broker-dealers that currently utilize the product did not express concern that the withdrawal will negatively impact their business, and did not expect to continue using the product. These customers will still have access to the underlying information, and will remain able to summarize that information through their own dashboards or other similar products. Broker-dealers that do not currently utilize the product will not be affected. The Proposal therefore does not permit unfair discrimination.

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.

Intermarket Competition

The withdrawal of QView will have no impact on intermarket competition (the competition among SROs). Indeed, the Proposal may generate competitive responses from other exchanges by, for example, introducing their own versions of QView, although, as is evident from Nasdaq's experience, this type of product does not appear to be subject to high customer demand.

Intramarket Competition

The Proposal will not cause any unnecessary or inappropriate burden on intramarket competition (competition among exchange customers). As

explained in our discussion of unfair discrimination above, broker-dealers that currently utilize the product did not indicate that they would be adversely impacted in any way. Such broker-dealers would still have access to the underlying information, and would remain able to summarize that information through their own dashboards or other similar products. Broker-dealers that do not currently utilize the product would not be affected in any way. The Proposal therefore will not cause any unnecessary or inappropriate burden on intramarket competition.

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) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. According to the Exchange, current QView customers and other market participants have already been notified of the end-of-year withdrawal; each customer that currently purchases QView has been individually notified, and other market participants have been notified through a Nasdaq Data News item published on October 14, 2020. Because QView and Latency Optics are

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give 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 Exchange has satisfied this requirement.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

both charged as monthly fees, waiver of the operative delay would allow the Exchange to withdraw these products at the end of the calendar month on December 31, 2020, which would provide for a more orderly withdrawal for both the Exchange and current customers. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposal operative upon filing.¹⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change 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 email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2020-088 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-2020-088. 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 (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2020-088 and should be submitted on or before January 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Eduardo A. Aleman,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90791; File No. SR-NYSEArca-2020-113]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reflect a Change to the Index Underlying the United States Copper Index

December 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 18, 2020, NYSE Arca, Inc. ("NYSE Arca" 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 Exchange. The Commission is publishing this notice to solicit

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 reflect a change to the index underlying the United States Copper Index Fund, shares of which are currently listed and traded on the Exchange under NYSE Arca Rule 8.200-E. 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 Commission has approved a proposed rule change relating to listing and trading on the Exchange of "Units" of the United States Copper Index Fund for listing and trading on the Exchange under NYSE Arca Rule 8.200-E ("Trust Issued Receipts").³ The Exchange proposes to reflect a change to the SummerHaven Copper Index Total Return (the "Index"), which is the index underlying the Units.⁴

³ See Securities Exchange Act Release Nos. 65249 (September 2, 2011), 76 FR 55956 (September 9, 2011) (SR-NYSEArca-2011-63) (Notice of Filing of Proposed Rule Change To List and Trade Shares of the United States Metals Index Fund, the United States Agriculture Index Fund and the United States Copper Index Fund Under NYSE Arca Equities Rule 8.200) ("Prior Notice"); 65601 (October 20, 2011), 76 FR 66339 (October 26, 2011) (SR-NYSEArca-2011-63) (Order Approving a Proposed Rule Change To List and Trade Shares of the United States Metals Index Fund, the United States Agriculture Index Fund and the United States Copper Index Fund Under NYSE Arca Equities Rule 8.200) ("Prior Order" and, together with the Prior Notice, the "Prior Releases").

⁴ On December 1, 2020 the Trust filed with the Commission an amended registration statement on Form S-1 under the Securities Act of 1933 relating