

CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s)*.: MC2024–386 and CP2024–384; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 125 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: June 25, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Almaroof Agoro; *Comments Due*: July 3, 2024.

2. *Docket No(s)*.: MC2024–387 and CP2024–395; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 126 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: June 25, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Gregory S. Stanton; *Comments Due*: July 3, 2024.

3. *Docket No(s)*.: MC2024–388 and CP2024–396; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 127 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: June 25, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Gregory S. Stanton; *Comments Due*: July 3, 2024.

4. *Docket No(s)*.: MC2024–389 and CP2024–397; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 128 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: June 25, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Christopher C. Mohr; *Comments Due*: July 3, 2024.

5. *Docket No(s)*.: MC2024–390 and CP2024–398; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 129 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: June 25, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public*

Representative: Christopher C. Mohr; *Comments Due*: July 3, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100416; File No. SR–NASDAQ–2024–027]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reconfigure Fees for the Daily List and Fundamental Data to Better Reflect the Value of the Information Distributed

June 25, 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 June 17, 2024, 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 reconfigure fees for the Daily List and Fundamental Data to better reflect the value of the information distributed.

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

Nasdaq proposes to reconfigure fees for the Daily List,³ its corporate actions product,⁴ to better reflect the value of the information distributed.⁵

First, Nasdaq proposes to increase the licensing fee for the Daily List, which also includes Fundamental Data, from \$1,750 to \$3,500 per month to better reflect its market value. Current fees for the Daily List are below the range of fees for other corporate actions products, none of which, except for the Daily List, are subject to the fee filing requirements that apply to Self-Regulatory Organizations (“SROs”).⁶ Current fees for comparable products are between \$3,000 and \$12,000 per month or more; the proposal will raise Daily List fees from below that range to within the range, at its lower end.⁷

Second, together with the proposed rule change, the Exchange will publish information about the execution of corporate actions by the Exchange, as well as information related to issuer status under Exchange rules, on NasdaqTrader.com or a successor website, at the same time as such information is updated on the Daily List. The dual publication of information on a public website and a corporate actions product is the same

³ See Equity 7, Section 122. The information contained in the Daily List includes information about the corporate actions of issuers (such as dividends, stock splits, and mergers and acquisitions), execution of corporate actions by the Exchange (such as execution dates and symbol changes), and information about issuer status.

⁴ Corporate actions are undertakings by issuers that materially impact the value of their shares, such as, for example, the payment of dividends, stock splits, tender offers, or a merger and acquisition.

⁵ This proposal was first submitted on June 3, 2024. See SR–Nasdaq–2024–024. On June 17, 2024, that filing was withdrawn and replaced with the instant filing to provide additional information in support of the proposal.

⁶ As discussed in further detail below, the New York Stock Exchange sells a corporate actions product, but does not file SRO fees for that product. See New York Stock Exchange, *Corporate Actions*, available at <https://www.nyse.com/market-data/corporate-actions>. NYSE also publishes information related to the execution of corporate actions on a public website, as Nasdaq proposes to do with this filing. The remaining vendors that offer corporate actions products are not SROs.

⁷ As discussed below, this estimate is based on Nasdaq’s understanding of the market, as none of the competitor products have published fee schedules.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

two-part structure used by the New York Stock Exchange, which does not file the fees for its corporate actions product as an SRO.⁸

Publication of information about the execution of corporate actions and corporate status by the Exchange on an open website will not require a rule change. Nasdaq already publishes information concerning certain corporate actions on *NasdaqTrader.com*, such as Market Center and financial status, and this change will simply add to the information made available to the public.

The Daily List

The Daily List is a compendium of corporate actions information—including new listings, delistings, symbol name changes, dividends, and other information for the Nasdaq Stock Market.⁹ It is comprised of the following sets of information:¹⁰

Nasdaq Equity Data: Provides notification of corporate actions information such as new listings, delistings, corporate name changes, trading symbol changes, market tier changes and Financial Status Indicator (FSI) changes that occur on the Nasdaq Global Select Market, Nasdaq Global Market and Nasdaq Capital Market.

Dividends: Provides notification of cash dividends, stock dividends and stock splits to Nasdaq securities.

Next Day Ex-Date: Summarizes the securities with dividend adjustments to

be applied to the previous closing price on the next business day.¹¹

Full historical information is available back to May 24, 1999. Daily List files for the current business month are available for download via a secured FTP interface, and from a secured website.

All of the information published on the Daily List is from issuers, except for information related to the execution of corporate actions by the Exchange and issuer status under Exchange rules. Nasdaq receives corporate actions information from issuers on the same basis as any other market participant, with no inherent advantage in speed or access due to its unique position as an SRO.

Daily List is updated every 15 minutes between 7:00 a.m. and 10:00 p.m. on trading days.

Fundamental Data

Nasdaq Fundamental Data provides security master and market summary statistics on a T+1 basis for Nasdaq securities.¹² The fundamental data report contains start of trading day information on Nasdaq equities, including trading summary data such as high and low price, total shares outstanding (TSO), Nasdaq Official Closing Price (NOCP), and public float.

Like the Daily List, Fundamental Data files are available via secured website or secured file transfer protocol server.

Fundamental Data is distributed with the Daily List as supplemental information.

Proposed Changes

As summarized above, Nasdaq proposes to reconfigure fees for the Daily List to better reflect the value of the information distributed.

First, Nasdaq proposes to increase the licensing fee for the Daily List, which also includes Fundamental Data, from \$1,750 to \$3,500 per month to better reflect its market value. The Daily List faces competition from substitute products from a number of vendors, none of which are required to file fees for their corporate actions products as SROs. Based on Nasdaq's understanding of the sale of corporate actions products, the fee range for competitor corporate actions products appears to be between \$3,000 and \$12,000 per month or more. The proposal will raise Daily List fees from below that range to within the range, at its lower end.

Second, together with the proposed rule change, the Exchange will make corporate actions executed by the

Exchange and information related to issuer status under Exchange rules available to the public on *NasdaqTrader.com* or a successor website at the same time as on the Daily List. The dual publication of information on a public website and a corporate actions product is the same two-part structure used by the New York Stock Exchange, which does not file the fees for its corporate actions product as an SRO.

Publication of information about the execution of corporate actions and corporate status by the Exchange on an open website will not require a rule change. Nasdaq already publishes information concerning certain corporate actions on *NasdaqTrader.com*, such as Market Center and financial status, and this change merely adds to the information made available to the public.

Market for Corporate Actions Products

A corporate action is an undertaking by an issuer that materially impacts the value of its shares. Corporate actions range from making a change to a company's name to issuing a dividend or restructuring the company through a merger or bankruptcy. Common corporate actions include, but are not limited to, name or trading symbol change, stock splits,¹³ issuance of dividends, mergers and acquisitions, rights issue,¹⁴ and liquidation or dissolution.¹⁵

Although corporate actions are undertaken by the issuer, certain corporate actions require activity by the Exchange to complete. One example of this is the Ex-Date for dividends. When a company declares a dividend, its board of directors establishes a record date. This is the date a person must be on the company's record as a shareholder to receive a dividend payment. Once the record date is set, the ex-dividend date is also set. For the Nasdaq Stock Exchange, the Ex-Date for dividends is generally set one business day prior to the record date, but a different date may be established under certain circumstances.¹⁶

¹³ This includes both the division of a stock into smaller shares and a reverse stock split that reduces the number of shares outstanding and increases the price per share.

¹⁴ "Rights issue" refers to the issuance of "rights" to shareholders that entitle them to buy additional shares directly from the company in proportion to their existing holdings within a prescribed period.

¹⁵ Liquidation is the process by which a company sells off its assets and closes its business. In liquidation, the company's assets are sold and the proceeds are used to pay off creditors. Dissolution is the last stage of liquidation, in which the assets and property of the company are redistributed.

¹⁶ See Equity 11, Section 11140. Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-

⁸ NYSE publishes information on exchange implementation of corporate actions on two different web pages, one for corporate actions (NYSE Corporate Actions) and another for ex-date dividends (NYSE Ex-Date Dividends).

⁹ See Nasdaq, *Daily List*, available at <http://www.nasdaqtrader.com/Trader.aspx?id=DailyListPD>; see also Securities Exchange Act Release No. 68636 (January 11, 2013), 78 FR 3940 (January 17, 2013) (SR-Nasdaq-2013-009) (establishing fees for the Daily List and Fundamental Data products); Securities Exchange Act Release No. 34-79701 (December 29, 2016), 82 FR 1381 (January 5, 2017) (SR-Nasdaq-2016-175) (establishing current monthly fee for the Daily List and Fundamental Data).

¹⁰ The last fee modification for the Daily List inadvertently identified the Mutual Fund Quotation Service ("MFQS") as included with the Daily List product. See Securities Exchange Act Release No. 34-79701 (December 29, 2016), 82 FR 1381 (January 5, 2017) (SR-Nasdaq-2016-175). The Commission approved removal of MFQS from the Nasdaq rule book in 2008. See Securities Exchange Act Release No. 58392 (August 20, 2008), 73 FR 50382 (August 26, 2008) (SR-Nasdaq-2008-019). MFQS information was removed from the Daily List on October 17, 2011. See Nasdaq, "Data Technical News #2011-17" (September 1, 2011), available at <https://www.nasdaqtrader.com/TraderNews.aspx?id=dtN2011-017>. The identification of MFQS as information included in the Daily List Product in SR-Nasdaq-2016-175 was in error.

¹¹ The Daily List also includes a symbol directory and a list of dual-listed securities for reference.

¹² See *Supra*, n.8.

The status of an issuer on a listing exchange, as reported by that exchange, is typically included in corporate actions products. For example, the Nasdaq Stock Exchange establishes requirements for the continued listing of issuers and standards for primary equity securities.¹⁷ Nasdaq monitors and disseminates information on financial status,¹⁸ whether there has been a downgrade, and the reason for that downgrade, as applicable.

Competitor Products

Nasdaq has identified numerous competitors in the market for corporate actions products, none of which file fee changes with the Commission as an SRO. A non-exhaustive list of vendors offering corporate actions products includes S&P Global, LSEG, Quodd, Barchart, Six Financial, Polygon.io, EDI, and FactSet. S&P Global states that its “unified Corporate Actions solution helps firms across a range of asset classes, market client types and business lines” with their corporate actions processing.¹⁹ LSEG states that its Equity Corporate Actions tracks “all stocks which are primarily listed (or quoted) on 200+ key venues”²⁰ Quodd Financial Information Services, Inc. states that it provides “comprehensive access to global corporate actions and dividend content across dozens of data elements.”²¹ Barchart.com, Inc. provides “corporate actions data on thousands of publicly-traded companies.”²² Six Financial

Information states that its corporate actions product “[c]overs more than 80 event types with the focus on the main event attributes to allow simple tracking of corporate actions.”²³ Polygon.io, Inc. provides information on “company financials, stock market holidays, [and] corporate actions.”²⁴ Exchange Data International, Ltd. states that it offers “corporate actions data from over 150 exchanges worldwide.”²⁵ FactSet Research Systems Inc. advertises that it “offers a comprehensive view of global corporate actions data.”²⁶

The New York Stock Exchange, an SRO, offers a corporate actions product that is not filed with its other SRO fees. NYSE states that its “Corporate Actions package is comprised of several reports providing over 60 different corporate actions types for all equities listed on NYSE Group (NYSE, NYSE American and NYSE Arca market centers), including but not limited to cash dividends, stock dividends, distributions, splits, new listings (IPOs), suspensions and delistings.”²⁷

In addition to offering a corporate actions product, NYSE makes exchange-specific corporate actions information, such as ex-dates and financial status, available on a public website.²⁸ NYSE’s Corporate Actions product is disseminated by NYSE in its capacity as a vendor of financial information, not in its capacity as an exchange, and is not included in the NYSE rulebook.

Nasdaq’s proposal to reformulate the Daily List is modeled on this structure.

This is not an exhaustive list of products. For example, Nasdaq as a vendor of financial information makes

corporate actions information from third parties available on its website.²⁹

None of these vendors of corporate actions products publish their fees. Based on Nasdaq’s understanding of the market, the fee range for these products appears to be between \$3,000 and \$12,000 per month or more.

Publication of Exchange Information

The Exchange proposes to publish information that originates from the Exchange related to the execution of corporate actions as well as issuer status updates on a public website. This Exchange information will be published on the following three pages on NasdaqTrader.com (or a successor website): Nasdaq Ex-Date; Nasdaq Security Status Updates; and When Issued/When Distributed.

*Nasdaq Ex-Date.*³⁰ The Nasdaq Ex-Date will provide the execution date for dividends. The dividend Ex-Date is generally set for stocks one business day prior the record date, according to the settlement cycle, except under specified circumstances. However, there are occasions when Ex-dates are not set one business day prior to the record date, such as when a date is floating. Under those circumstances, the Ex-Date will be set by the Exchange and provided to the public on NasdaqTrader.com or a successor website.

The Nasdaq Ex-Date page will provide the following fields of information: Issue Symbol, Issuer Name, Ex Date, Record Date, and Pay Date.

*Nasdaq Security Status Updates.*³¹ The execution of corporate actions and issuer status under Exchange rules will be published on a page dedicated to status updates. These include security additions, anticipated additions, deletions (delistings)³² and suspensions; name and symbol changes; market center changes;³³ and financial

Warrants” (“All transactions in securities, except “cash” transactions, shall be “ex-dividend,” “ex-rights” or “ex-warrants”: (1) on the day specifically designated by Nasdaq Regulation after definitive information concerning the declaration and payment of a dividend or the issuance of rights or warrants has been received at the office of Nasdaq Regulation; or (2) on the day specified as such by the appropriate national securities exchange”).

¹⁷ See, e.g., Nasdaq Stock Market Rules 5400 (Nasdaq Global Market), Section 5450 (Continued Listing Requirements and Standards for Primary Equity Securities) (setting forth a number of standards for continued listing, including standards related to market value).

¹⁸ The four basic categories of financial status are deficient, delinquent, bankrupt and normal. The deficient, bankrupt and delinquent categories are not mutually exclusive, and more than one of these categories may apply to a particular issuer.

¹⁹ See S&P Global Market Intelligence, *Corporate Actions*, available at <https://www.spglobal.com/marketintelligence/en/mi/products/corporate-actions.html>; see also S&P Global Market Intelligence, *Corporate Actions Product Brochure*, available at <https://cdn.ihsmarket.com/www/pdf/0323/SPGI-MI-Corporate-Actions-Brochure.pdf>.

²⁰ LSEG Data & Analytics, *Equity Corporate Actions*, available at <https://www.lseg.com/en/data-analytics/financial-data/corporate-actions-data/equity-corporate-actions>.

²¹ Quodd Financial Information Services, Inc., *QX Digital Platform*, available at <https://quodd.com/universe/>.

²² Barchart.com, Inc., *Corporate Actions Data*, available at <https://www.barchart.com/solutions/data/company/corporate-actions>.

²³ Six Financial Information USA Inc., *Corporate Action*, available at <https://www.six-group.com/en/products-services/financial-information/display-and-delivery-capabilities/sixflex/corporate-action.html#scrollTo=available-content>.

²⁴ Polygon.io, Inc., *Stocks API Documentation*, available at <https://polygon.io/docs/stocks/getting-started>.

²⁵ Exchange Data International, Ltd., *Worldwide Equity Corporate Actions*, available at <https://www.exchange-data.com/product/worldwide-corporate-actions-data/>.

²⁶ FactSet Research Systems Inc., *New Corporate Actions Report is Now Available in the Company/Security Tab*, available at <https://insight.factset.com/new-corporate-actions-report-is-now-available-in-the-company/security-tab>.

²⁷ New York Stock Exchange, *Corporate Actions*, available at <https://www.nyse.com/market-data/corporate-actions> (“The Corporate Actions of NYSE Group Listings provide daily and intraday event updates for securities including stock splits, dividends, rights issues, spin-offs, and much more.”); see also NYSE, *Corporate Actions for NYSE Group Listings*, available at <https://www.nyse.com/market-data/corporate-actions/corporate-actions-for-nyse-group-listings> (providing additional information about the NYSE Corporate Actions product).

²⁸ See NYSE Corporate Actions; NYSE Ex-Date Dividends.

²⁹ See QuantRocket, *Sharadar Data*, available at <https://www.quantrocket.com/sharadar/> (including corporate event data sources from SEC Form 8-K filings with history since 1993).

³⁰ See Nasdaq, *Nasdaq Ex-Date*, available at <https://www.nasdaqtrader.com/Trader.aspx?id=NASDAQ-Ex-Date&from=05%2F01%2F2024&to=05%2F22%2F2024>.

³¹ Nasdaq, *Nasdaq Security Status Updates*, available at <https://www.nasdaqtrader.com/Trader.aspx?id=NASDAQ-Security-Status-Updates&from=05%2F21%2F2024&to=05%2F21%2F2024>.

³² Securities pending suspension or delisting are also published on the Nasdaq Listing Center. See *Nasdaq, Issues Pending Suspension or Delisting*, available at <https://listingcenter.nasdaq.com/IssuersPendingSuspensionDelisting.aspx>

³³ The three Nasdaq market centers are the Nasdaq Global Select Market, the Nasdaq Global Market, and the Nasdaq Capital Market.

status changes³⁴ (old financial status, new financial status, and downgrade reason, if applicable).

The Nasdaq Security Status Updates page will provide the following fields of information: Effective Date, Symbol, Company Name, Issue Event, Downgrade Reason, Old Financial Status, and New Financial Status.

*When Issued and When Distributed.*³⁵ Nasdaq will separately publish when issued and when distributed information for all Nasdaq listed securities. “When issued” and “when distributed” refer to transactions that are made conditionally because a security has been authorized but not yet issued or distributed, respectively. Treasury securities, stock splits, and new issues of stocks and bonds all can be traded on a when-issued or when-distributed basis. This file will identify when a security is in either of these two states.

The file will provide the following fields of information: Effective Date, Issue Name, Symbol, When Issued Flag, and When Distributed Flag.

These three pages of information, together with the corporate actions information published by issuers and available on the Commission’s website and other sources, would enable any party to assemble its own set of corporate actions information. These pages will be updated at the same time as information is updated on the Daily List. As such, Nasdaq will have no material advantage in the sale of the Daily List relative to any other vendor offering corporate actions information.³⁶ Nasdaq Ex-Date and Nasdaq Security Status will update every 15 minutes between 7:00 a.m. and 10:00 p.m. on trading days, as needed (no update will be sent if there are no changes). When Issued and When Distributed information will be updated at 8:00 a.m., 11:00 a.m., and 4:00 p.m. on trading days.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,³⁸ in particular, in that it

³⁴ The four basic categories of financial status are deficient, delinquent, bankrupt and normal. The deficient, bankrupt and delinquent categories are not mutually exclusive, and more than one of these categories may apply to a particular issuer.

³⁵ Nasdaq, *When Issued and When Distributed Flags*, available at <https://www.nasdaqtrader.com/Dynamic/SymDir/NasdaqWhenIssueWhenDistributed.txt>.

³⁶ Corporate actions information is not time sensitive in the same way as real-time data.

³⁷ 15 U.S.C. 78f(b).

³⁸ 15 U.S.C. 78f(b)(4) and (5).

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.

Equitable Allocation of Reasonable Dues, Fees and Other Charges

The proposed fees are an equitable allocation of reasonable dues, fees and other charges because: (i) the Daily List and Fundamental Data are subject to competition; (ii) the proposed fees are within the prevailing market price for comparable corporate actions products; (iii) exchange-specific information related to corporate actions will be available on the NasdaqTrader.com or a successor website; and (iv) customers can cancel the Daily List and Fundamental Data for any reason, including cost.

The Daily List and Fundamental Data are subject to competition.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”³⁹ Similarly, in *NetCoalition v. Securities and Exchange Commission*,⁴⁰ (“NetCoalition”), the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.⁴¹ As the court emphasized, the Commission “intended in Regulation NMS that market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”⁴²

As explained above, Nasdaq has identified numerous competitors in the

³⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”); see also Securities Exchange Act Release No. 34–79701 (December 29, 2016), 82 FR 1381 (January 5, 2017) (SR–Nasdaq–2016–175) (discussion of competition in prior Daily List filing).

⁴⁰ *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

⁴¹ See *id.* at 534–535.

⁴² *Id.* at 537.

sale of corporate actions products, none of which are required to file fee changes with the Commission as an SRO, including S&P Global Corporate Actions, LSEG Equity Corporate Actions, and others. Corporate actions information is also available from the issuer, as well as in corporate filings on the SEC’s website. Information on the execution of corporate actions on the Nasdaq Exchange as well as information on issuer status will be available on NasdaqTrader.com or a successor website.

The publication of all information that originates from the Exchange on NasdaqTrader.com, together with the corporate actions information published by issuers and available on the Commission’s website and other sources, would enable any party to assemble its own set of corporate actions information. Nasdaq has no unique access to information that does not originate with the Exchange, and therefore has no inherent competitive advantage relative to any other vendor with respect to the gathering and dissemination of such information.⁴³

Fundamental Data provides security master and market summary statistics on a T+1 basis for Nasdaq securities, as explained above. This next-day information can be replicated by any vendor of market information and is therefore subject to direct competition.

Nasdaq estimates that approximately 10 percent of its customers that consume Nasdaq US equity data purchase the Daily List.

The proposed fees are within the range of prevailing market rates.

The corporate actions products listed above are not subject to publication requirements for SRO products, and their fee schedules are not published and not on a publicly available price list. Nevertheless, based on Nasdaq’s experience with and understanding of the market, monthly fees for corporate actions products appear to range between \$3,000 and \$12,000 per month or more. The proposal will raise Daily List fees to be within the range, at its lower end.

Exchange-specific information will be available on NasdaqTrader.com.

As explained above, this information will be available on three pages: Nasdaq Ex-Date; Nasdaq Security Status Updates; and a When Issued/When Distributed page.

⁴³ Moreover, corporate action information originating from Nasdaq is limited to Nasdaq-listed issuers; Nasdaq has no unique information related to issuers not listed on Nasdaq. Most vendors sell corporate actions information for companies listing on all exchanges.

The information published on *NasdaqTrader.com* or successor website will provide materially the same information as published by NYSE. As noted above, the NYSE Corporate Actions product is not an exchange product published in NYSE's capacity as an SRO. Nasdaq understands that NYSE Corporate Actions is not filed as an SRO product because the corporate action information specific to NYSE as an SRO—related to the execution of corporate actions and issuer status—is available on the NYSE website. With this filing, Nasdaq is proposing to employ the same distribution structure currently employed by NYSE.⁴⁴

The publication of this information, together with the corporate actions information published by issuers and available on the Commission's website and other sources, would enable any party to assemble its own set of corporate actions information. Because the information available on *NasdaqTrader.com* will be updated at the same time as the Daily List, Nasdaq will have no material advantage in the sale of its corporate actions product relative to any other vendor.

Customers can cancel these products for any reason, including cost.

Any Daily List customer would be able to obtain the information contained in the Daily List with other corporate actions products, or by compiling corporate actions information using publicly available data and the information to be published on *NasdaqTrader.com*. The next-day information provided with Fundamental Data can be replicated by any vendor of market information. The Daily List and Fundamental Data can be cancelled by any customer for any reason, including cost.

No Unfair Discrimination

The Daily List and Fundamental Data are purchased by a mix of exchanges, asset managers, hedge funds, banks, and media portals. No particular category of customer is more reliant on these products than any other category, and therefore none will disparately impacted by the proposed price change. As explained above, corporate actions products are available from many vendors, and any customer can replace the Daily List with any other corporate actions product or assemble such information on its own. The same is true for Fundamental Data.

⁴⁴ Nasdaq is considering submission of a filing to withdraw the Daily List from the Nasdaq rulebook on a future date. This filing, however, is limited to bringing Daily List fees more in line with prevailing market prices.

In summary, the proposed fees are an equitable allocation of reasonable dues, fees and other charges because: (i) the Daily List and Fundamental Data are subject to competition; (ii) proposed fees are within the range of fees for comparable products; (iii) exchange-specific information related to corporate actions will be available on *NasdaqTrader.com* or a successor website; and (iv) customers can cancel the Daily List and Fundamental Data for any reason, including cost. For these reasons, the Exchange has provided a substantial basis demonstrating that the fee is equitable, fair, reasonable, and not unreasonably discriminatory, and therefore consistent with and in furtherance of the purposes of the Exchange Act.

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.

Inter-Market Competition

Nothing in the Proposal burdens inter-market competition (the competition among self-regulatory organizations).

First, the Daily List can be replicated by any SRO, or any firm that compiles corporate actions information.⁴⁵ To the degree that the Daily List includes information about the Exchange's execution of corporate actions or issuer status, that same information will be publicly available on the *NasdaqTrader.com* or successor website. The remaining corporate actions information is available from issuers, on the SEC website, and other sources.

Nasdaq does not have unique access to the information that is provided through the product (except for the Exchange information that will be made publicly available), and market participants do not have an unqualified need for the information provided. Therefore, the price that Nasdaq can charge for the product is constrained by the ability of market participants to reduce their demand for the product and the ability of competitors to enter the market and profitably undercut any supracompetitive price increase.

If the price of this product were set above competitive levels, other vendors could determine whether the product was sufficiently attractive to their own

⁴⁵ As noted above, NYSE does not file its corporate actions product as an SRO product, and the other vendors of corporate actions products are not SROs.

customers to warrant incurring the costs associated with purchasing it for distribution. Since distributors are in competition with one another to attract customers, they must continually evaluate their cost base and the value of their product offering to customers to determine whether they allow them to maximize profitability. This competition for customers provides another check on the price for proprietary data products such as the Daily List. To the extent that other exchanges seek to develop and market a corporate actions product, they are free to do so.

With respect to Fundamental Data, nothing in the proposal impedes the ability of any other SRO from introducing a similar product.

Intra-Market Competition

Nothing in the Proposal burdens intra-market competition (the competition among consumers of exchange data) because the Daily List and Fundamental Data are available to any customer under the same fee schedule as any other customer, and any market participant that wishes to purchase these products can do so on a non-discriminatory basis.

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.⁴⁶ 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.

⁴⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2024-027 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-2024-027. 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-2024-027 and should be submitted on or before July 22, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁷

Vanessa A. Countryman,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100426; File No. SR-CBOE-2024-027]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

June 25, 2024.

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 June 12, 2024, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "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

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, 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 Exchange proposes to amend its Fees Schedule, effective June 3, 2024.³ Specifically, the Exchange proposes to adopt and amend certain fees related to transactions in Mini-SPX Index ("XSP") options. Specifically, the proposed rule change amends and adopts certain fees for XSP in the Rate Table for All Products Excluding Underlying Symbol List A, as follows:

- Adopts fee code MP, appended to all Market-Maker (capacity "M") orders in XSP that are executed manually (*i.e.*, open outcry) and assesses a fee of \$0.15 per contract; and amends fee code MC, currently appended to all Market-Maker (capacity "M") orders in XSP that are contra customer (executed manually and electronically) and assesses a fee of \$0.15 per contract, to apply only to Market-Maker (capacity "M") orders in XSP that are contra customer and that are executed electronically.
- Amends fee code MX, currently appended to all Market-Maker (capacity "M") orders in XSP contra to non-customers and assesses a fee of \$0.09 per contract, to apply to all Market-Maker orders in XSP contra to non-customers that add liquidity and that are executed electronically.
- Adopts fee code MY, appended to all Market-Maker (capacity "M") in XSP contra to non-customers that remove liquidity and that are executed electronically and assesses a fee of \$0.14 per contract.
- Amends fee code XF, appended to all Clearing Trading Permit Holders ("TPHs") (capacity "F") and Non-Clearing TPH Affiliates (capacity "L") orders in XSP and assesses a fee of \$0.13, to apply to all Clearing Trading Permit Holders ("TPHs") (capacity "F"), Non-Clearing TPH Affiliates (capacity "L"), Broker-Dealer (capacity "B"), Joint Back-Office (capacity "J"), Non-TPH Market-Maker (capacity "N"), and Professional (capacity "U") (collectively, "Non-Market Makers, Non-Customers") orders in XSP contra to a customer or contra to a non-customer that add liquidity and to assess a fee of \$0.30 per contract.
- Amends fee code XB, appended to all Broker-Dealer (capacity "B"), Joint Back-Office (capacity "J"), Non-TPH

³ The Exchange initially filed the proposed fee changes on June 3, 2024 (SR-CBOE-2024-024). On June 11, 2024, the Exchange withdrew that filing and submitted SR-CBOE-2024-026. On June 12, 2024, the Exchange withdrew that filing and submitted this proposal.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁴⁷ 17 CFR 200.30-3(a)(12).