

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76825; File No. SR-NASDAQ-2015-162)

January 5, 2016

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Nasdaq Rule 7015

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 23, 2015, 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

Nasdaq is proposing to amend Nasdaq Rule 7015 to clarify the connectivity options and application of the fees assessed thereunder.

The text of the proposed rule change is available at nasdaq.cchwallstreet.com [sic] at Nasdaq [sic] principal office, 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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

1. Purpose

Rule 7015 provides the charges Nasdaq assesses for equity securities market connectivity to systems operated by Nasdaq. Nasdaq is amending Rule 7015 in seven ways: (1) to clarify how Rule 7015 applies to FINRA systems; (2) to clarify the term “port pair”; (3) to clarify QIX protocol connectivity options; (4) to clarify FIX protocol connectivity options; (5) to eliminate outdated CTCI connectivity options that rely on Nasdaq-supported circuits; (6) to eliminate CTCI connectivity as it relates to FINRA/NASDAQ Trade Reporting Facility; and (7) to add clarifying rule text and numbering to the section of the rule concerning other port fees.

First, Nasdaq is proposing to add clarifying language to the preamble of the rule. Specifically, Nasdaq is proposing to note that the various connectivity options under the rule include connectivity to systems operated by FINRA. Although Nasdaq believes that it is clear that some of the systems listed are operated by FINRA (e.g., FINRA’s OTCBB Service), the Exchange believes that expressly stating that the systems include those of FINRA will make the rule more clear. Nasdaq is also updating the list of FINRA systems that the connectivity options under the rule may connect to. Nasdaq notes that, from time to time, new systems are added by Nasdaq and FINRA, and Nasdaq is taking this opportunity to update the rule with all of the FINRA systems covered by the rule. As such, Nasdaq is updating the rule to include the FINRA Trade Reporting and Compliance Engine (“TRACE”), and the FINRA OTC Reporting Facility (“ORF”).

Second, Nasdaq is proposing to clarify the use of the term “port pair,” which is used inconsistently under the rule. For certain ports under Rule 7015 that are used for either trading or data, Nasdaq additionally provides a disaster recovery port at no cost. Such a disaster

recovery port provides connectivity to Nasdaq's or FINRA's disaster recovery location in the event of a failure of Nasdaq's or FINRA's primary trading infrastructure. Nasdaq has provided disaster recovery ports at no cost since 2006 to encourage member firms to maintain such connectivity in the event of a market disruption so that the market as a whole could continue to operate.³ As noted, Nasdaq has not used the term port pair consistently under the rule, whereby in certain cases, port pair is not noted in the rule yet Nasdaq provides a disaster recovery port nonetheless.⁴ Accordingly, the Exchange is eliminating the term port pair and is clarifying the rule by specifically noting when a disaster recovery port is available for a particular protocol under a rule.⁵

Third, Nasdaq is reorganizing and adding language to subparagraph (a) of Rule 7015 to list all QIX connectivity provided by Nasdaq and to clarify that the fee assessed for QIX trading ports applies to ports that are used exclusively for FINRA connectivity. QIX is a proprietary messaging protocol that allows a member firm to send and receive messages relating to quotes and order entry. A QIX port may be used exclusively for connectivity to Nasdaq or to FINRA's

³ Although Nasdaq encourages all member firms and options participants to have and use disaster recovery ports and to participate in disaster recovery testing, the Exchange historically was unable to compel a member firm to connect to, or otherwise take the steps necessary to, use a disaster recovery port. Nasdaq recently adopted rules to require mandatory business continuity and disaster recovery plans testing by certain member firms and options participants, consistent with Regulation SCI. See Rule 1170; see also Securities Exchange Act Release No. 76368 (November 5, 2015), 80 FR 70045 (November 12, 2015) (SR-NASDAQ-2015-134). As a consequence, certain member firms will be required to use disaster recovery ports and participate in business continuity and disaster recovery plans testing.

⁴ For example, a FIX Trading Port under Rule 7015(b).

⁵ A disaster recovery port is available for QIX, FIX, and CTCI protocol ports under Rules 7015(a), (b), (c). Disaster recovery ports are also available for all of the ports available under Rule 7015(g)(2).

OTCBB. Nasdaq assesses a fee of \$1,200 per port,⁶ per month for QIX connectivity to FINRA.⁷ Thus, a member firm that wishes to connect to both Nasdaq and FINRA using the QIX protocol must have two separate ports. Nasdaq assesses a fee for QIX ports used exclusively for connectivity to facilities of FINRA, but not for ports used for connectivity to Nasdaq. As such, Nasdaq is adding new text that clarifies that the charge under the rule applies to QIX ports used for FINRA quoting and/or trading, and new language that clarifies that QIX ports used for Nasdaq quoting and/or trading are provided at no cost. Nasdaq is also eliminating the ECN direct connection port pair connectivity option from the rule as it is based on outdated technology and Nasdaq does not have any subscribers to it. Lastly, Nasdaq is deleting the existing rule text concerning unsolicited message ports and is adding new rule text making it clear that such ports are for FINRA connectivity.

Fourth, Nasdaq is proposing to add clarifying rule text to subparagraph (b) of the rule, which concerns fees assessed for FIX ports. A FIX port is a trading port using a FIX-based telecommunication protocol. FIX, an abbreviation for Financial Information eXchange, is a standard message protocol that defines an electronic message exchange for communicating securities transactions between two parties. Nasdaq offers four FIX-based trading ports, which vary based on messaging formats and capability. Nasdaq is proposing to list these four protocols under the rule that a member firm may select when subscribing to a FIX trading port. Similarly,

⁶ Unlike other protocols such as FIX, subscription to QIX provides three physical connections to either Nasdaq or FINRA. The QIX connectivity option is architected in this manner to increase throughput performance by separating unsolicited message streams from quote/order entry and response streams, and to separate a member firm's proprietary quote information from customer orders that are reflected in its quotes. For purposes of assessing a fee, the QIX trading functionality is deemed to be a single port.

⁷ Under Rule 7015(a), a member firm may subscribe to a QIX trading port, and a QIX unsolicited message port. An unsolicited message port is not used for trading, but rather provides information concerning orders such as order status and execution reports.

Nasdaq is adding clarifying language to the FIX Port for Services Other than Trading subscription. A FIX Port for Services Other than Trading provides subscribers with a non-trading port that is used solely to report over the counter trades for tape reporting and/or clearing purposes. Nasdaq is proposing to list each venue to which a FIX Port for Services Other than Trading may connect a member firm. Lastly, Nasdaq is adding language to the rule noting that disaster recovery ports are available for FIX connectivity at no charge.

Fifth, Nasdaq is proposing to eliminate rule text under subparagraph (c) of the rule that concerns bandwidth-based connectivity options to connect to a CTCI station and related fees. The deleted table of fees concerns CTCI connectivity that relies on Nasdaq-supported circuits. These circuits are based on outdated technology and Nasdaq does not have any subscribers to any of these circuits. Member firms instead use third party connectivity to access their CTCI stations. Nasdaq is also adding language to the subparagraph noting that disaster recovery ports are available for CTCI station connectivity at no charge.

Sixth, Nasdaq is proposing to eliminate CTCI connectivity from subparagraph (e) of the rule, which concerns specialized services related to the FINRA/NASDAQ Trade Reporting Facility. Nasdaq is proposing to eliminate the connectivity option because this add on fee is directly related to the CTCI connectivity options Nasdaq is proposing to eliminate, rendering it moot.

Seventh, Nasdaq is proposing to add clarifying rule text and numbering to subparagraph (g) of the rule, which concerns other port fees. Subparagraph (g) contains all other connectivity options available that are not otherwise described in Rule 7015. These connectivity options include wireless connectivity (specifically Multicast Wave Ports), and other trading and telecommunications ports. Under the rule, the Exchange assesses a charge of \$550 per month for

each port pair, other than Multicast ITCH data feed pairs, for which the fee is \$1,000 per month for software-based TotalView-ITCH or \$2,500 per month for combined software- and hardware-based TotalView-ITCH, and TCP ITCH data feed pairs, for which the fee is \$750 per month. The Exchange also assesses an additional charge of \$200 per month for each port used for entering orders or quotes over the Internet. Lastly, the Exchange assesses an additional charge of \$600 per month for each port used for market data delivery over the Internet. The Exchange is proposing to list each connectivity option provided under the rule and the related fee.

Under subparagraph (g) of the rule, a member firm may subscribe to other port pairs not otherwise noted in the rule. Such port pairs may be OUCH and RASH protocol ports or Drop ports. The Exchange is proposing to describe each of these options under the rule separately. Member firms may subscribe to trading ports, which are exclusively used for testing purposes. These ports may not be used for trading in securities in the System, and are provided at no cost. The Exchange is adding rule text noting that these test ports may be subscribed to under the rule. The Exchange also provides optional backup ports for OUCH port subscribers at no cost. OUCH backup ports are similar to disaster recovery ports; however, unlike disaster recovery ports that provide backup connectivity to the Exchange's disaster recovery location in Chicago, OUCH backup ports provide alternative port hardware in the event of a failure of the primary port hardware in the primary connectivity location in Carteret. The Exchange notes that OUCH ports have the largest number of subscribers and the hardware used for OUCH ports houses the largest number of member firms per hardware unit, therefore representing the greatest potential impact to the market should there be a hardware failure. Accordingly, the Exchange determined that offering OUCH backup ports will help ensure there is minimal market impact should there be an OUCH port hardware failure. The Exchange is adding OUCH backup ports as a service that may

be subscribed to at no cost. The Exchange also provides data retransmission ports at no cost. Data retransmission ports allow a subscriber to replay market data, in the event the data was missed in live feed or for verification purposes. Data retransmission ports only allow replay of the current trading day and do not provide data concerning prior trading days' data. The Exchange is adding rule text noting that data retransmission ports may be subscribed to under the rule. The Exchange is also expressly noting that disaster recovery ports are available for the connectivity options under the rule at no cost. Lastly, the Exchange is proposing to eliminate the two subscription options and related fees provided under subparagraph (g) of the rule assessed for ports that are used for entering orders or quotes over the Internet, and ports that are used for market data delivery over the Internet. The Exchange notes that it is eliminating these ports because they are outmoded means of connecting to the Exchange and neither have any subscribers.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the clarifying changes to the rule protect investors and the public interest because they explicitly describe the fees assessed for all ports under the rule. Describing all services covered by the rule will serve to avoid investor confusion over the scope of what connectivity options are available, and the costs of such options. The Exchange notes that it is not adding new connectivity options or functionality, but is rather describing more specifically what is currently offered under the rule. In this regard, the Exchange is adding new rule text that describes all functionality available under each subparagraph of the rule, and is reorganizing some rule text under the rule in an effort to make the rule clearer. The Exchange notes that much of the new text concerns testing ports, and ports used in the event of a disaster or hardware failure. These ports help ensure that a fair and orderly market is maintained by allowing member firms to test their systems prior to connecting to the live trading environment, and to provide backup connectivity in the event of a failure or disaster. Thus, the Exchange believes the proposed clarifying changes are consistent with the protection of investors and the public interest.

The Exchange believes that the proposed deletion of the ECN direct connection port pair under Rule 7014(a) [sic], the deletion of the CTCI connectivity options under Rule 7014(c) [sic] and (e) [sic], as well as the deletion of the Internet-based port fees under Rule 7014(g) [sic], are reasonable, equitably allocated, and not unfairly discriminatory because there are no subscribers to these connectivity options, all of which are based on outmoded means of connecting to the Exchange. As a consequence, no member firms will be impacted by deletion of the connectivity

options. The Exchange notes that it is not altering the charges assessed for the remaining connectivity options under Rule 7015.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, Nasdaq is making clarifying changes to Rule 7015, which does not impose any burden on competition whatsoever. To the contrary, the proposed change facilitates competition by clarifying what connectivity options are provided by the Exchange, thereby informing [sic] other market venues a better understanding of what connectivity options are available for Nasdaq. With that better understanding, other market venues may improve existing connectivity options or offer new connectivity options to compete with Nasdaq. Accordingly, the proposed changes do not inhibit market participants' ability to compete among each other, nor do they impose any burden on competition among market venues, but rather may promote competition among market venues.

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

Written comments were neither solicited nor received.

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

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

the Act¹⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹¹ 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2015-162 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-2015-162. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

¹⁰ 15 U.S.C. 78s(b)(3)(a)(iii) [sic].

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

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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should

submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2015-162 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Robert W. Errett
Deputy Secretary

¹² 17 CFR 200.30-3(a)(12).