

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84930; File No. SR-NASDAQ-2018-105)

December 21, 2018

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Entry Fee for Listing on the Exchange's Global and Global Select Market Tiers

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 17, 2018, 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 amend the entry fee for listing on the Exchange's Global and Global Select Market tiers.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 increase the Exchange's entry fees for companies listing on the Nasdaq Global and Global Select Markets.

Nasdaq currently charges entry fees for the Nasdaq Global and Global Select Market based on the number of shares outstanding according to the following tiers³:

Up to 30 million shares	\$125,000
30+ to 50 million shares	\$150,000
50+ to 100 million shares	\$200,000
Over 100 million shares	\$225,000

These fees are based on the aggregate of all classes of equity securities to be listed on the Nasdaq Global and Global Select Market, as shown in the company's most recent periodic report or in more recent information held by Nasdaq or, in the case of new issues, as shown in the offering circular or registration statement. In the case of foreign companies, total shares outstanding includes only those shares issued and outstanding in the United States.

The entry fees for companies listing on the Nasdaq Global and Global Select Markets were last modified in 2010.⁴ Nasdaq now proposes to increase the entry fees to the following:

Up to 30 million shares	\$150,000
30+ to 40 million shares	\$170,000
40+ to 50 million shares	\$210,000
50+ to 60 million shares	\$250,000
60+ to 70 million shares	\$290,000

³ Companies must also submit a \$25,000 initial application fee, which is credited towards the entry fee upon listing. See Rule 5910(a)(11).

⁴ See Securities Exchange Act Release No. 34-61669 (March 5, 2010), 75 FR 11958 (March 12, 2010) (approving SR-NASDAQ-2009-081).

Over 70 million shares \$295,000

As a result, the minimum entry fee for the Nasdaq Global and Global Select Markets would increase from \$125,000 to \$150,000 for companies with up to 30 million shares. The maximum entry fee for the Nasdaq Global and Global Select Markets, which would be applicable to companies with over 70 million shares outstanding, would increase from \$225,000 to \$295,000. The revised schedule would also increase the number of fee tiers so that each tier range between the minimum of 30 million shares and the maximum of 70 million shares has 10 million shares in the tier.

Nasdaq is proposing these changes to better align its fees with the value of a listing to issuers.

Any company that submits its application to Nasdaq before January 1, 2019, and lists before July 1, 2019, would be subject to fees under the existing fee schedule. Nasdaq believes that it is appropriate to continue the existing fee schedule for these companies because they will be substantially far along in the process of going public at the time of this filing and may have made decisions based on the existing fee schedule.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Section 6(b)(4) and (5) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. Further, the proposed rule change is designed to promote

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4) and (5).

just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest.

Nasdaq believes that the proposed fee increase is not unfairly discriminatory and represents an equitable allocation of reasonable fees because it reflects the Exchange's increased costs since fees were last increased in 2010.⁷ In addition, the proposed fee increase reflects enhancements to the listing process, such as Nasdaq's online Listing Center, which simplifies the process of applying to Nasdaq; the Governance Clearinghouse, which provides insights into issues facing public companies and companies that are preparing to go public; and the IPO process, including the Nasdaq IPO Bookviewer, which provides information to stabilization agents during the IPO opening process, and the Nasdaq IPO Indicator, a unique web-based data tool available to all Nasdaq member firms, which helps manage their orders for an IPO. Nasdaq also continues to invest in its physical facilities for listed companies, including an expansion of the Nasdaq Marketsite, where Nasdaq hosts market opens and closes and which will provide expanded meeting space for company events.

Nasdaq believes that the proposed fees are reasonable because those fees would be equal to, or less than, the entry fee for listing the same number of shares on the New York Stock Exchange ("NYSE").⁸

⁷ See Securities Exchange Act Release No. 34-61669 (March 5, 2010), 75 FR 11958 (March 12, 2010) (approving SR-NASDAQ-2009-081).

⁸ At each tier level of the proposed fees, Nasdaq's fees would be equal to, or less than, the entry fee for listing the same number of shares on the NYSE. See NYSE Listed Company Manual Section 902.03, imposing a one-time special charge of \$50,000 and an additional fee of \$0.004 per share, subject to a minimum fee of \$150,000 and a maximum fee of \$295,000. For each proposed Nasdaq fee tier, Nasdaq's fee will be substantially the same, but slightly less than, the NYSE fee for a company listing the minimum number of shares in that tier. For example, a Nasdaq-listed company with 50,000,001 to 60,000,000 shares will pay a \$250,000 entry fee, whereas the NYSE entry fee for the same company would range from \$250,000.04 to \$290,000.

The proposed change to the tier structure, which will expand the number of fee tiers and make each tier between the minimum and maximum fee smaller, is not unfairly discriminatory and represents an equitable allocation of reasonable fees because it helps minimize the difference in fees paid by companies with a similar number of shares outstanding. Further, the proposed change is not unfairly discriminatory because it more closely aligns Nasdaq's fees for listing on the Global and Global Select Markets with those of NYSE, which charges on a per share basis.

Under the proposed fee schedule, as under the current fee schedule, companies with more shares outstanding will pay higher fees. Nasdaq believes that this is not unfairly discriminatory because these companies have more shares available for trading on the Exchange's facilities and companies with more shares outstanding are generally larger companies that may use more of the Exchange's services.

Nasdaq also believes that it is equitable and not unfairly discriminatory to allow any company that submits its application to Nasdaq before January 1, 2019, and lists before July 1, 2019, to pay fees under the existing fee schedule. These companies will be substantially far along in the process of going public at the time of this filing and may have made decisions based on the existing fee schedule, which is a non-discriminatory [sic] reason to allow them time to list under that fee schedule.⁹ On the other hand, Nasdaq believes that a company that has not yet filed an application, or that cannot complete the listing process before July 1, 2019, has sufficient time to consider the revised listing fees in making its listing decision.

⁹ See Securities Exchange Act Release No. 34-55202 (January 30, 2007), 72 FR 6017 (February 8, 2007) (SR-NASDAQ-2006-040) (increasing entry fees for certain companies, but allowing companies that had applied before the date of the filing to pay the prior entry fees). See also Securities Exchange Act Release No. 34-72669 (July 24, 2014), 79 FR 44234 (July 30, 2014) (SR-NASDAQ-2014-058) (a filing on May 27, 2014 that modified the free services offered to certain newly listing companies, but allowed companies that applied to list before July 31, 2014, and actually listed before September 30, 2014, to receive services under the prior rule).

In addition, the proposed fee increases will help ensure that Nasdaq has adequate resources for its regulatory program, thereby helping to protect investors and the public interest consistent with the requirements of Section 6(b)(5) of the Act.

Last, Nasdaq notes that it operates in a highly competitive market in which companies can readily switch exchanges if they deem the listing fees excessive.¹⁰ In such an environment, Nasdaq must continually review its fees to assure that they remain competitive with other exchanges.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The market for listing services is extremely competitive and listed companies may freely choose alternative venues, both within the U.S. and internationally. For this reason, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹¹

¹⁰ The Justice Department has noted the intense competitive environment for exchange listings. See "NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandon Their Proposed Acquisition of NYSE Euronext After Justice Department Threatens Lawsuit" (May 16, 2011), available at http://www.justice.gov/atr/public/press_releases/2011/271214.htm.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2018-105 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2018-105. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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-NASDAQ-2018-105, 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

Brent J. Fields
Secretary

¹² 17 CFR 200.30-3(a)(12).