SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82218; File No. SR-NASDAQ-2017-121)

December 5, 2017

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate
Effectiveness of Proposed Rule Change to Amend Rule 4759

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule

19b-4 thereunder,[2] notice is hereby given that on November 28, 2017, 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.

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

The Exchange proposes to add additional detail about the purposes for which the

Exchange uses securities information processor data pursuant to Rule 4759, and to make other

technical corrections to that rule.

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

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[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 add additional detail about the purposes for which the Exchange uses securities information processor ("SIP") data pursuant to Rule 4759, and to make other technical corrections to that rule. Rule 4759 lists the proprietary and network processor feeds that are utilized for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. The Nasdaq trading system utilizes proprietary market data as the Primary Source of quotation data for the following markets that provide a reliable direct feed: NYSE American, Nasdaq BX, CBOE EDGA, CBOE EDGX, CHX, NYSE, NYSE Arca, Nasdaq, Nasdaq PSX, CBOE BYX, and CBOE BZX.[3] For each of these markets, the Exchange uses SIP data as the Secondary Source of quotation data.[4]

Generally, Rule 4759 provides that the Primary Source of data is used for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions, unless it is delayed by a configurable amount compared to the Secondary Source of data. While this is true for quotation data used by the trading system for the handling, routing, and execution of orders, and also regulatory compliance processes related to those functions, including, for example, determination of trade-throughs under Rule 611 of Regulation NMS, the Exchange uses SIP data for certain trade and administrative messages. For example, the

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[3]   Several of the exchanges mentioned in this filing have been renamed recently; the names used herein reflect the current names of the exchanges. This proposed rule change also includes amendments to reflect the new names for these exchanges.

[4]   SIP data is used as the Primary Source for NYSE National, FINRA ADF, and IEX. There is no Secondary Source for these markets.

Exchange uses SIP data for limit-up limit-down price bands, market-wide circuit breaker decline and status messages, Regulation SHO state messages, trading state messages (i.e., halts and resumes), and trade messages (i.e., last sale). As described in more detail below, with the exception of last sale information, these messages originate from the SIP, and are often not available on the direct feeds. To mitigate risks associated with a potential SIP outage, however, where the information is available on a direct feed from one or more exchanges, the Exchange uses such direct feed data solely as a backup to the SIP data.

The Exchange therefore proposes to amend Rule 4759 to provide that the Nasdaq System consumes *quotation data* from the listed proprietary and network processor feeds for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions.[5] Furthermore, with the proposed changes, Rule 4759 will provide that the SIP is the Primary Source of certain trade and administrative messages such as limit-up limit-down price bands, market-wide circuit breaker decline and status messages, Regulation SHO state messages, halts and resumes, and last sale information, and that, where available, the direct feeds are the Secondary Source of such information. For the reasons discussed in this filing, the Exchange believes that it is appropriate to use the SIP as the Primary Source of data for these trade and administrative messages. Limit-up limit down price bands, for instance, are not available on any of the direct feeds used by the Exchange as these bands are calculated and disseminated by the SIP pursuant to the Plan to Address Extraordinary Market Volatility. Similarly, market-wide circuit breaker decline and status messages, Regulation SHO state messages, and trading state messages are available on some but not other direct feeds. Again,

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[5]   The Exchange notes that the rule language currently provides that the Exchange "utilizes" these feeds. As a non-substantive change, the Exchange is changing this word to "consumes" as this word fits better with language being added to the rule.

the SIP is responsible for calculating any decline in the S&P 500 Index and disseminating halt messages for the market-wide circuit breaker, and also for disseminating other halts, resumes, and Regulation SHO state messages. In addition, the Exchange's trading system consumes last sale information from the SIP, which is used for the limited purposes of determining when the Exchange can open securities after an IPO,[6] and to calculate the need to trigger a short sale price test under Nasdaq Rule 4763(c) and Rule 201 of Regulation SHO because a covered security for which the Exchange is the listing market has declined 10% or more in one day. Although last sale information is disseminated on proprietary market data feeds, this information is typically included in a different market data product than the Exchange uses for quotation data, and the Exchange's trading system therefore also consumes last sale information from the SIP for the limited purposes described above.

Finally, the Exchange proposes to make additional technical amendments to Rule 4759. Specifically, several of the exchanges and direct market data feeds described in the rule have been renamed since the Exchange adopted the rule. The Exchange therefore propose to: (1) rename the exchanges described in the rule so that the exchanges are identified by their new names,[7] and (2) replace the names of the individual direct feeds with a generic notation that the "Direct Feed" is used to avoid the need for future updates every time an exchange changes the name of its proprietary market data offerings. These changes are technical amendments and will have no impact on the operation of the Exchange or its use of the identified market data feeds.

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[6]   The Exchange waits for a last sale from the listing market prior to starting the Exchange's opening process following an IPO on another market.

[7]   The new names of each of the exchanges described in Rule 4759 are used earlier in this filing. See notes 4-5 supra and accompanying text.

2.   Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in

general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is

designed to 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.

The Exchange believes that the proposed rule change removes impediments to and

perfects the mechanism of a free and open market and protects investors and the public interest

because it provides additional transparency around the purposes for which the Exchange uses

SIP data. The proposed rule change does not change the operation of the Exchange or its use of

data feeds; rather it clarifies the Exchange's rules with regard to information consumed from the

SIP. Specifically, the proposed rule change indicates that the Exchange uses SIP data for certain

administrative messages, including, limit-up limit-down price bands, market-wide circuit breaker

decline and status messages, Regulation SHO state messages, and trading state messages (i.e.,

halts and resumes), as well as trade messages (i.e., last sale). At least one other exchange uses

SIP data for these purposes, while continuing to use the direct feeds for quotation data where the

direct feeds often offer reduced latency.[10]

The Exchange believes that it is appropriate to use SIP data as the primary source for

administrative messages that originate from the SIP and may or may not be available on

particular proprietary market data feeds. Although quote data used for the handling, routing, and

execution of orders is typically available with a lower latency over the direct feeds, the same is

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[8]   15 U.S.C. 78f(b).

[9]   15 U.S.C. 78f(b)(5).

[10]   See IEX Rule 11.410(a)(3).

not true for the administrative messages described above that originate from the SIP and are re-disseminated (or not disseminated at all) by the various direct feeds. The Exchange therefore believes that it is consistent with the public interest and protection of investors to get this information directly from the SIP, i.e., the official source of the information, rather than indirectly from proprietary market data feeds that may or may not redistribute such information. Furthermore, with respect to last sale information, such information is used by the trading system for the limited purposes described in this filing, and is not typically available on the direct feeds that the Exchange uses for quotation data. The Exchange therefore also believes that it is appropriate to get last sale information from the SIP. Where the information described in this filing is available on a direct feed, however, direct feed data will be used in the event failover is necessary, thereby adding redundancy and mitigating risks associated with a potential SIP outage.

The proposed rule change also makes certain technical amendments to Rule 4759, including updating the names of exchanges that have been renamed since the adoption of this rule. The Exchange believes that it is consistent with the public interest and the protection of investors to update the names of the exchanges listed in Rule 4759 as this change will make it easier for market participants to identify the exchanges for which the Exchange uses the direct feed and/or SIP for the purposes described in the rule. Furthermore, the proposed rule change replaces the names of the direct feeds with a generic notation that the "Direct Feed" is used. The Exchange believes that this change is consistent with the protection of investors and the public interest as the exchanges may change the names of their data feeds periodically, resulting in the list being out of date. Rather than update the list every time a market changes the names of their [sic] proprietary market data products, the Exchange believes that it is preferable to simply

explain that the direct feed is used. Several other exchanges also similarly note that the direct feed is used rather than spelling out the names of each feed.[11]

      B.   <u>Self-Regulatory Organization's Statement on Burden on Competition</u>

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. The proposed rule change is not designed to address any competitive issue but rather would provide members and other market participants with information about the purposes for which the Exchange uses SIP data, and make other technical corrections to Rule 4759. No changes to the Exchange's trading or other systems are being introduced with the proposed rule change, and the Exchange believes that the proposed changes will increase transparency around the operation of the Exchange and its use of market data feeds without any significant impact on competition.

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

No written comments were either solicited or received.

III.   <u>Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action</u>

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 Act[12] and subparagraph (f)(6) of Rule 19b-4 thereunder.[13]

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[11]   <u>See</u> <u>e.g.</u> IEX Rule 11.410(a); CBOE BZX Rule 11.26.

[12]   15 U.S.C. 78s(b)(3)(A)(iii).

[13]   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, along with a brief description and the text of the proposed rule change, at least

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act[14] normally does

not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)[15]

permits the Commission to 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 so that the proposal may become operative upon filing. The

Commission believes that waiving the 30-day operative delay is consistent with the protection of

investors and the public interest as it will allow the Exchange to clarify the purposes for which

the Exchange uses SIP data and avoid potential confusion among market participants.

Accordingly, the Commission hereby waives the operative delay and designates the proposal

operative upon filing.[16]

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.

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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.

[14]   17 CFR 240.19b-4(f)(6).

[15]   17 CFR 240.19b-4(f)(6)(iii).

[16]   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).

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-2017-121 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-2017-121. 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 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-2017-121 and should be submitted on or before [insert date 21 days from publication in the <u>Federal Register</u>].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

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Eduardo A. Aleman
Assistant Secretary

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[17]   17 CFR 200.30-3(a)(12).