

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101948; File No. SR-NASDAQ-2024-082)

December 17, 2024

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify All-inclusive Annual Fees for Certain Companies

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 3, 2024, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit 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 modify all-inclusive annual fees for certain companies, as described below. While the changes proposed herein are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2025.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to modify the Exchange's all-inclusive annual listing fees for certain domestic and foreign companies listing equity securities on the Nasdaq Global Select, Global and Capital Markets.³ While these changes are effective upon filing, Nasdaq has designated the proposed amendments to be operative on January 1, 2025.

Currently, for companies listed on the Capital Market, other than Acquisition Companies (i.e., companies whose business plan is to complete an initial public offering and engage in a merger or acquisition with one or more unidentified companies within a specific period of time, as described in IM-5101-2), ADRs, Closed-end Funds and Limited Partnerships, the all-inclusive annual fee described in Listing Rule 5920 ranges from \$49,500 to \$85,000; for Acquisition Companies listing on the Capital Market the all-inclusive annual fee is \$81,000; for ADRs listed on the Capital Market the all-inclusive annual fee ranges from \$49,500 to \$59,500; and for Limited Partnerships listed on the Capital Market the all-inclusive annual fee ranges from \$34,500 to \$42,000. On the Global and Global Select Markets, the all-inclusive annual fee described in Listing Rule 5910 for companies other than Acquisition Companies, ADRs, Closed-end Funds and Limited Partnerships ranges from \$52,500 to \$182,500; for Acquisition Companies on the Global and Global Select Markets the all-inclusive annual fee is \$81,000; for

³ The Exchange initially filed the proposed pricing change on November 19, 2024 (SR-NASDAQ-2024-072). On December 3, 2024, the Exchange withdrew that filing and replaced it with SR-NASDAQ-2024-082.

ADRs the all-inclusive annual fee ranges from \$52,500 to \$94,000; and for Limited Partnerships the all-inclusive annual fee ranges from \$42,000 to \$87,000. On the Global Market, the all-inclusive annual fee described in Listing Rule 5930 for SEEDS and Other Securities ranges from \$15,000 to \$30,000.⁴ The all-inclusive annual fee for Closed-end Funds listed on any market tier ranges from \$34,500 to \$112,000. In each case, except for Acquisition Companies, a company's all-inclusive annual fee is based on its total shares outstanding.⁵

Nasdaq proposes to amend the all-inclusive annual fee for certain domestic and foreign companies listing equity securities on the Nasdaq Global Select, Global and Capital Markets to the following amounts,⁶ effective January 1, 2025:

Global/Global Select Markets

	Total Shares Outstanding	Annual fee before the proposed change	Annual Fee effective January 1, 2025
Equity securities other than, in part, Acquisition	Up to 10 million shares	\$52,500	\$56,000

⁴ Rule 5940 sets forth the all-inclusive annual listing fees applicable to Exchange Traded Products that are listed on the Nasdaq Global Market. Nasdaq is not proposing to amend this rule.

⁵ REITs are subject to the same fee schedule as other equity securities; however for the purpose of determining the total shares outstanding, shares outstanding of all members in a REIT Family listed on the same Nasdaq market tier may be aggregated. Similarly, for the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market. See Listing Rules 5910(b)(2) and 5920(b)(2).

⁶ In establishing the fee changes described in this rule filing, Nasdaq considered various factors that distinguish companies, including market tier, shares outstanding, and security type, as well as pricing for similar securities on other national securities exchanges. Nasdaq's also intends over time to transition to a fee structure whereby the all-inclusive annual fee is calculated on a per-share basis (subject to a minimum and maximum fee), instead of one based on tiers. In setting the proposed fees Nasdaq therefore also considered, in part, the resulting per-share fee range of companies in the current tiers and attempted to minimize the eventual impact of any future change to a per-share fee. As a result of this, and the other factors noted above, some tiers will have a higher percentage increase than other tiers. Nasdaq believes that the ever-shifting market share among the exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes.

	Total Shares Outstanding	Annual fee before the proposed change	Annual Fee effective January 1, 2025
Companies, ADRs, Closed-end Funds and Limited Partnerships	10+ to 50 million shares	\$65,500	\$70,000
	50+ to 75 million shares	\$85,000	\$86,000
	75+ to 100 million shares	\$113,500	\$115,000
	100+ to 125 million shares	\$141,500	\$143,000
	125+ to 150 million shares	\$157,500	\$164,000
	Over 150 million shares	\$182,500	\$193,000
ADRs	Up to 10 million ADRs and other listed equity securities	\$52,500	\$56,000
	10+ to 50 million ADRs and other listed equity securities	\$59,500	\$63,500
	50+ to 75 million ADRs and other listed equity securities	\$70,500	\$75,500
	Over 75 million ADRs and other listed equity securities	\$94,000	\$100,500
Closed-end Funds	Up to 50 million shares	\$34,500	\$36,500

	Total Shares Outstanding	Annual fee before the proposed change	Annual Fee effective January 1, 2025
	50+ to 100 million shares	\$56,500	\$59,500
	100+ to 250 million shares	\$84,000	\$88,500
	Over 250 million shares	\$112,000	\$118,000
Limited Partnerships	Up to 75 million shares	\$42,000	\$44,500
	75+ to 100 million shares	\$56,500	\$59,500
	100+ to 125 million shares	\$69,500	\$73,000
	125+ to 150 million shares	\$75,500	\$79,500
	Over 150 million shares	\$87,000	\$91,500
SEEDS and Other Securities*	Up to 5 million shares	\$15,000	\$16,000
	5+ to 10 million shares	\$17,500	\$18,500
	10+ to 25 million shares	\$20,000	\$21,000
	25+ to 50 million shares	\$22,500	\$24,000
	Over 50 million shares	\$30,000	\$31,500

* Rule 5930 sets forth the all-inclusive annual listing fees applicable to SEEDS and Other Securities qualified under Rule 5715 or 5730 for listing on the Nasdaq Global Market.

Capital Market

	Total Shares Outstanding	Annual fee before the proposed change	Annual Fee effective January 1, 2025
Equity securities other than Acquisition Companies, ADRs, Closed-end Funds and Limited Partnerships	Up to 10 million shares	\$49,500	\$53,000
	10+ to 50 million shares	\$65,500	\$70,000
	Over 50 million shares	\$85,000	\$86,000
ADRs	Up to 10 million ADRs and other listed equity securities	\$49,500	\$53,000
	Over 10 million ADRs and other listed equity securities	\$59,500	\$63,500
Closed-end Funds	Up to 50 million shares	\$34,500	\$36,500
	50+ to 100 million shares	\$56,500	\$59,500
	100+ to 250 million shares	\$84,000	\$88,500
	Over 250 million shares	\$112,000	\$118,000
Limited Partnerships	Up to 75 million shares	\$34,500	\$36,500
	Over 75 million shares	\$42,000	\$44,500

Nasdaq also proposes to amend the all-inclusive annual fee for Acquisition companies.

Nasdaq currently charges a flat all-inclusive annual listing fee of \$81,000 for Acquisition Companies listed on the Nasdaq Capital, Global and Global Select Markets.⁷ Nasdaq is proposing to increase the all-inclusive annual listing fee for these companies from \$81,000 to \$85,000 to better align its fees with the value of the listing to Acquisition Companies.

Finally, Nasdaq proposes to update amounts in examples in Listing Rules 5910(b)(3)(D) and 5920(b)(3)(D), clarifying the application of the rules for companies transferring between Nasdaq tiers, to align the fee amounts with the fees applicable in year 2025.

Nasdaq proposes to make the aforementioned fee increases to better reflect the Exchange's costs related to listing equity securities, such as from the ongoing remodeling of a portion of the New York Headquarters used for company events, including market opening and closing bells, conducting the required associated regulatory oversight, and Nasdaq's advocacy efforts on behalf of listed companies, and the corresponding value of such listing to companies. In establishing these fee changes Nasdaq also considered the competitive atmosphere in which the Exchange operates.

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 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a preliminary matter, Nasdaq notes that the Exchange operates in a highly competitive

⁷ See Listing Rules 5910(b)(2)(F) and 5920(b)(2)(G).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

marketplace for the listing of companies.¹⁰ The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. The Exchange believes that the ever-shifting market share among exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes. Moreover, new competitors can enter the space, including existing exchanges without listing programs.¹¹ Accordingly, competitive forces constrain the Exchange's listing fees and changes to the listing fees can have a direct effect on the ability of Nasdaq to compete for new listings and retain existing listings.

Nasdaq believes that the proposed amendments to Listing Rules 5910(b)(2), 5920(b)(2), and 5930 to increase the all-inclusive annual listing fees as set forth above are reasonable because of the increased costs incurred by Nasdaq, including due to price inflation. In that regard, the Exchange notes that its general costs to support listed companies and conduct the required associated regulatory oversight have increased. The Exchange also continues to expand and improve the services it provides to listed companies, the technology to deliver those services and the customer experience at the Nasdaq MarketSite. These improvements include the remodeling and expansion of a portion of Nasdaq's New York Headquarters used for company events, including market opening and closing bells, and the investment in technology to support

¹⁰ The Justice Department has noted the intense competitive environment for exchange listings. See "NASDAQ OMX Group Inc. and Intercontinental Exchange 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 In that regard, Nasdaq notes that CBOE BZX has announced a new listing offering. See "Cboe Launches New Global Listing Offering for Companies and ETFs of the Purpose-Driven Innovation Economy" (June 2, 2023), available at <https://ir.cboe.com/news/news-details/2023/Cboe-Launches-New-Global-Listing-Offering-for-Companies-and-ETFs-of-the-Purpose-Driven-Innovation-Economy-06-02-2023/default.aspx>. Similarly, the Texas Stock Exchange announced its plans to be a fully electronic national securities exchange providing a venue to list and trade public companies and the exchange-traded products, available at <https://www.txse.com/about-us>.

ongoing trading. Nasdaq also continued its advocacy efforts on behalf of listed companies.

The Exchange also believes that the proposed amendments to the annual fees for equity securities are equitable because they do not change the existing framework for such fees, but simply increase the amount of certain of the fees to reflect increases in operating costs and the perceived value of a listing, including as a result of Nasdaq's advocacy efforts on behalf of listed companies.¹² Similarly, as the fee structure remains effectively unchanged apart from increases in the rates paid by certain issuers, as described above, the changes to annual fees for equity securities neither target nor will they have a disparate impact on any particular category of issuer of equity securities.

The Exchange believes that the proposal to increase annual fees is not unfairly discriminatory because Nasdaq will maintain the current fee structure, based on shares outstanding, except for fees applicable to Acquisition Companies as described above, and the same fee schedule will apply to all such issuers. While the Exchange does not propose to increase the minimum annual fees charged for securities covered by Rule 5935 (that sets forth the all-inclusive annual listing fees applicable to Non-Convertible Bonds) and Rule 5940 (that sets forth the all-inclusive annual listing fees applicable to Exchange Traded Products), the Exchange believes that this is not unfairly discriminatory because the benefits the issuers of those other types of securities receive in connection with their listings are consistent with the current fee levels paid by those issuers. Pricing for similar securities on other national securities exchanges was also considered, and Nasdaq believes that a proposed all-inclusive annual listing fee is reasonable given the competitive landscape.

¹² See also footnote 6, above.

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. 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. The Exchange also does not believe that the proposed rule change will have any meaningful impact on competition among listed companies because all similarly situated companies will be charged the same fee.

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 Act¹³ and Rule 19b-4(f)(2)¹⁴ thereunder.

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 17 CFR 240.19b-4(f)(2).

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 (<https://www.sec.gov/rules/sro.shtml>);
or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2024-082 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-2024-082. 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-2024-082 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Sherry R. Haywood,

Assistant Secretary.

¹⁵ 17 CFR 200.30-3(a)(12).