

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72684; File No. SR-NASDAQ-2014-072)

July 28, 2014

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Disclose Publicly the Sources of Data Used for Exchange Functions

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 July 15, 2014, The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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

NASDAQ proposes a rule change to disclose publicly the sources of data, whether from the network processors or from direct data feeds, that NASDAQ utilizes when performing (1) order handling and execution; (2) order routing; and (3) related compliance processes.

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

In her June 5, 2014 market structure speech, the Chair requested that all national securities exchanges review and disclose their policies and procedures governing the market data used when performing important exchange functions.³ In a letter dated June 20, 2014, the Director of the Division of Trading and Markets codified this request:

We believe there is a need for clarity regarding whether (1) the SIP data feeds, (2) proprietary data feeds, or (3) a combination thereof, are used by the exchanges for purposes of (1) order handling and execution (e.g., with pegged or midpoint orders), (2) order routing, and (3) regulatory compliance, as applicable. ...

Accordingly, we ask that proposed rule changes be filed that disclose the particular market data feeds that are used for each of these purposes. Consistent with your recent discussions with Commission staff, we ask that each SRO file these proposed rule changes with the Commission by July 15, 2014.⁴

NASDAQ fully supports the Commission's efforts to provide more clarity in this area. In fact, in 2011, NASDAQ disclosed its general practices governing the use of market data in the handling, execution, and routing of orders on NASDAQ:

The Exchange is also changing its policies and procedures under Regulation NMS governing the data feeds used by its execution system and routing engine.

Current policies state that those systems use data provided by the network

³ See Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler O'Neill & Partners L.P. Global Exchange and Brokerage Conference (June 5, 2014).

⁴ See Letter from Steven Luparello, Director, SEC Division of Trading and Markets, to Robert Greifeld, Chief Executive Officer, NASDAQ OMX Group, Inc., dated June 20, 2014.

processors. In the future, those systems will use data provided either by the network processors or by proprietary feeds offered by certain exchanges directly to vendors. The determination of which data feed to utilize will be the same as the determination made with respect to the [MatchView] Feed. In other words, the Exchange execution system, routing engine and Feed will each utilize the same data for a given exchange....⁵

Although, as described above, NASDAQ publicly disclosed its general practice of consuming data from a combination of network processor and proprietary data feeds, NASDAQ did not disclose the specific feeds NASDAQ utilizes for each individual exchange, and it did not describe its data usage practice with respect to related compliance checks.

Through this proposed rule change, NASDAQ is publicly clarifying on a market-by-market basis the specific network processor and proprietary data feeds that NASDAQ utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. These complex practices are governed by a few, simple principles that are designed to ensure that NASDAQ has the most accurate view of the trading interest available across multiple markets, and to maximize the synchronization of the many exchange functions that depend upon the calculation of an accurate NBBO and top-of-book for each market. These principles are:

1. NASDAQ uses a proprietary data feed from each exchange that provides a reliable proprietary data feed. Where no reliable proprietary data feed is available, NASDAQ uses the network processor feed;

⁵ See SR-NASDAQ-2011-118 (Aug. 18, 2011); 76 F.R. 53007 (Aug. 25, 2011).

2. Where NASDAQ uses a proprietary data feed for an exchange quote, it also maintains access to the network processor feed as a back-up in the event a specific proprietary feed become unavailable or unusable for any reason;
3. NASDAQ uses the same proprietary data feed when performing order handling, routing, and execution functions, and also when the execution and routing system performs internal compliance checks related to those functions; and
4. NASDAQ acquires and processes all proprietary and network processor feeds via the same technological configuration (i.e., telecommunication circuitry, switches, and feed handlers) to the greatest extent possible.
5. NASDAQ calculates the National Best Bid and Offer (“NBBO”) and top-of-book for each exchange at a single point within the NASDAQ system, and then distributes that data simultaneously to numerous applications performing order handling,⁶ routing, execution, and internal compliance functions throughout the NASDAQ system.

As of the date of this filing, NASDAQ utilizes the following data feeds for the handling, execution and routing of orders, as well as for performing related compliance checks:

Market Center	Primary Source	Secondary Source
A – NYSE MKT (AMEX)	CQS/UQDF	n/a
B – NASDAQ OMX BX	BX ITCH 4.1	CQS/UQDF
D – FINRA ADF	CQS/UQDF	n/a
J – DirectEdge A	EdgeBook	CQS/UQDF
K – DirectEdge X	EdgeBook	CQS/UQDF
M – CSX	CQS/UQDF	n/a
N – NYSE	NYSE OpenBook Ultra	CQS/UQDF
P – NYSE Arca	ArcaBook Binary uncompactd	CQS/UQDF
T/Q – NASDAQ	ITCH 4.1	CQS/UQDF
W – CBOE	CQS/UQDF	n/a

⁶ With respect to order handling, the NBBO and top-of-book calculation feeds applications governing the proper processing midpoint orders, pegged orders, price-to-comply orders, and retail orders.

X – NASDAQ OMX PSX	PSX ITCH 4.1	CQS/UQDF
Y – BATS Y-Exchange	BATS PITCH	CQS/UQDF
Z – BATS Exchange	BATS PITCH	CQS/UQDF

NASDAQ uses these feeds to calculate the NBBO via an application called the “NMSFeed.” The NMSFeed consumes the NASDAQ Protected Quote Service (“NPQS”), which provides an internal view of that exchange’s own market data as NASDAQ ITCH, plus the proprietary and network processor market data feeds listed above. The NMSFeed calculates a Regulation NMS-Compliant “Best Bid or Offer” (“Compliant BBO”), and then delivers that information throughout the NASDAQ System, including to the “OUCH” order entry ports,⁷ the routing system, and various compliance applications described below.

Upon receipt of an update to a protected quote for a specific venue, the NMSFeed updates its quote for that venue, recalculates the consolidated BBO based upon the update, and recalculates the Compliant BBO after applying NASDAQ’s own BBO. Any quote that crosses NASDAQ’s BBO is ignored. NASDAQ odd lot orders at the same price are aggregated and considered in the NBBO calculation if the sum is greater than or equal to a round lot. Otherwise, they are not considered in the NBBO calculation. Out of the remaining quotes, the most aggressive remaining bid and offer (excluding NASDAQ⁸ and any destination which has been excluded from the NBBO in compliance with the self-help procedures under Regulation NMS) is selected and reported as the best quote. If away markets are crossing the market after applying NASDAQ’s BBO, orders will be accepted as originally priced and have the potential to execute.

⁷ OUCH is a protocol that allows NASDAQ participants to enter, replace and cancel orders and receive executions. In addition to OUCH, NASDAQ offers the FLITE protocol as an option for participants. In this document, references to OUCH also include FLITE because they are interchangeable for these purposes.

⁸ Deletion of NASDAQ’s quote at this stage of the process is necessary because otherwise the system would prevent valid executions on NASDAQ in the erroneous belief that such executions would be “trade throughs” in violation of Regulation NMS.

Any order sent to NASDAQ that is not an Intermarket Sweep Order (“ISO”) will have the Compliant BBO check enforced by the system.⁹

The NASDAQ OMX Routing and Special Handling System (“RASH”) utilizes the Compliant BBO to determine if and when an order with special processing directives is marketable either against one or more orders in either the Core Matching System or a remote trading venue. RASH also receives market data feeds from certain venues not displaying protected quotes in the national market system for use in “QDRK” and “QCST” routing strategies set forth in NASDAQ Rule 4758(a)(1)(A)(xiii) [sic] and (xiv) [sic], respectively. RASH maintains a number of routing processes, or Routers, unique to each venue that the System accesses. These Routers maintain a limited set of details for orders that are configured as routable by the user, while also monitoring the current best bid and best offer prices on each exchange.

The NASDAQ system includes internal compliance applications related to locked and crossed markets, trade throughs, limit-up/limit-down, and Regulation SHO compliance. Each of these applications utilizes the Compliant BBO to ensure compliance with applicable regulations.

NASDAQ operates a separate real-time surveillance system that is external to the execution systems and that monitors the execution system’s compliance with applicable rules and regulations. The real-time surveillance system utilizes a “mirrored” version of the internal NMSFeed in various realtime surveillance patterns, including (1) Lock/Cross, which detects

⁹ In general, any order that is sent to NASDAQ with an ISO flag is not re-priced and will be processed at its original price. There are a limited number of circumstances in which an order marked as an ISO will be determined not to be executable at its original price and will be re-priced. These include re-pricing under the Plan to Address Extraordinary Market Volatility, re-pricing to comply with Regulation SHO, and the re-pricing of an order with a post-only condition if NASDAQ has an order at that price at the time the order is accepted.

lock/cross events across all markets, regardless of whether or not NASDAQ is a participant in the event; (2) Trade Through, which detects potential trade through events for all three NASDAQ equity markets; and (3) RegSho, which detects potential RegSho violations, alerting when a trade executes at or below the NBB at the time of order entry while the stock is in a RegSho restricted state.

In addition to the operational transparency provided above, NASDAQ is also proposing to add Rule 4759, which will provide for the public display of the proprietary and network processor feeds that NASDAQ utilizes in the order handling, routing, and execution processes described above, as well as in the compliance functions described above. NASDAQ will display this information on www.nasdaqtrader.com, which is heavily used by NASDAQ members and their customers.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁰ in general and with Sections 6(b)(5) of the Act,¹¹ in particular in that it 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 investors and the public interest. The Exchange believes that this proposal is in keeping with those principles by enhancing transparency through the dissemination of the most accurate quotations data and by clarifying its contents.

¹⁰ 15 U.S.C. 78f.

¹¹ 15 U.S.C. 78f(b)(5).

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

The Exchange 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.

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 if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³

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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of 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 Commission deems this requirement to have been met.

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-2014-072 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-2014-072. 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; 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-2014-072 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.¹⁴

Kevin M. O'Neill
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).