

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82065; File No. SR-NASDAQ-2017-117)

November 13, 2017

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's Fees at Rule 7036 to Withdraw the Nasdaq Market Analytics Data Package from Sale

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 October 31, 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 amend the Exchange's fees at Rule 7036 to withdraw the Nasdaq Market Analytics Data Package from sale.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to withdraw the Nasdaq Market Analytics Data Package from sale. The Nasdaq Market Analytics Data Package, established in 2006,³ consists of four products: (i) Market Velocity, (ii) Market Forces, (iii) Competitive Volume Weighted Average Price (VWAP) Benchmark, and (iv) Competitive VWAP Leaders.

Market Velocity and Market Forces are real-time data products. Market Velocity measures the frequency and size of orders submitted to the trading system. Market Forces separates orders into buy and sell categories to indicate market direction. Market Velocity and Market Forces may include orders not visible in existing quote and order data feeds.

The Competitive VWAP Benchmark is an intra-day, query-response product that provides the best and worst average price performance by market makers trading on the Nasdaq Market Center execution system. The Benchmark is used to compare the purchaser's trade performance to those benchmarks. Competitive VWAP Leaders is a delayed product that identifies participants with the most experience trading a particular stock or type of stock, ranking participants by share volume, weighted by the difference between market participant VWAP and overall VWAP.

The Exchange proposes to withdraw the Nasdaq Market Analytics Data Package from the market. The Package was introduced in 2006, and has remained basically unchanged since then,

³ See Securities Exchange Act Release No. 54003 (June 16, 2006), 71 FR 36141 (June 23, 2006) (SR-NASD-2006-056).

notwithstanding substantial changes in technology and analytical techniques over that period. The product has generated little customer interest, and only a small number of customers currently purchase subscriptions.⁴

Recently, customers have inquired about possible modifications to the product. Specifically, customers expressed concern that data contained in the product may reveal too much information about the trading strategies of participants on the Exchange. While the Exchange does not believe that these concerns are well-founded, given that the information content of the product has been stable over time and the number of customer for the product is extremely small, the Exchange continually evaluates the views of its customers in developing and maintaining its product offerings and initiated a review of the product.

Upon such review, the Exchange has determined that modifying the product in keeping with customer requests would not be cost-effective in light of the small amount of revenue that the product generates. Given the age of the product, the small amount of revenue generated, and the cost of modifications, the Exchange has decided to withdraw the product from the market, effective immediately.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶ 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

⁴ Indeed, neither the Competitive VWAP Benchmark nor the Competitive VWAP Leaders has any customers at all.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

investors and the public interest. Specifically, the proposed withdrawal of the Nasdaq Market Analytics Data Package will remove a potentially controversial product from the market. In light of the age of the product, the small number of subscribers for that product, the fact that modifying the product would not be cost-effective, and the concerns expressed by some market participants, the Exchange believes that the proposal to remove this product from the market strikes the correct balance 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.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed withdrawal of the Nasdaq Market Analytics Data Package is an example of the impact of market forces on the Exchange. Because customers had not purchased the product

in sufficient numbers to economically justify further investment, the Exchange decided to discontinue the product. This is precisely how competitive markets operate.

The withdrawal of the Nasdaq Market Analytics Data Package will not impose any burden on competition as the Package will no longer be offered.

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

Because the 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) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act⁹ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁰ 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. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) 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 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 has waived this requirement.

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

notes that the Exchange's customers have expressed concern that data contained in the Nasdaq Market Analytics Data Package may reveal too much information about the trading strategies of participants on the Exchange, and have inquired about possible modifications to the product. The Commission also notes that, in light of the age of the product, the small number of subscribers, the cost of modifying the product, and the concerns raised by some market participants, the Exchange has determined to remove the product. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.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 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 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-2017-117 on the subject line.

¹¹ 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).

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-2017-117. 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-2017-117 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

Eduardo A. Aleman
Assistant Secretary

¹² 17 CFR 200.30-3(a)(12).