

contributing employers, potential new contributing employers, unions, and PBGC?

- In a two-pool withdrawal liability allocation arrangement that permits existing employers to be treated as new employers, what factors would a board of trustees consider in determining whether to allow an existing employer to be treated as a new employer?
- In a two-pool withdrawal liability allocation arrangement that permits existing employers to be treated as new employers, how should discounted withdrawal liability settlements, or the potential for such settlements, factor in PBGC's significant risk analysis under 29 CFR 4211.23(a)?
- In a two-pool withdrawal liability allocation arrangement that includes changes to a plan's mass withdrawal liability allocation rules, how should such changes factor in PBGC's significant risk analysis under 29 CFR 4211.23(a)?
- Given that the terms for participation in a new employer pool may vary among plans, are there certain terms and conditions of two-pool withdrawal liability arrangements that raise particular issues of significant risk?
- How do plans evaluate any tradeoffs between short-term benefits of adoption of two-pool alternative withdrawal liability arrangements (*e.g.*, infusion of new capital, retention of employees) and long-term risks created thereby?
- What are the public's views on other interests that may be affected by two-pool withdrawal liability allocation methods and special settlement terms that apply only to new-pool employers? Are there distinct interests among small businesses, participants, large employers, and plans? Are there distinct interests of orphan participants?
- How would widespread implementation of two-pool alternative withdrawal liability arrangements impact the larger multiemployer insurance system?
- Are there alternative arrangements for dealing with withdrawal liability concerns addressed by two-pool alternative withdrawal liability allocation methods that plans are considering that achieve the same goals (including, in particular, alternatives to providing mass withdrawal liability relief)?

#### *Plan Experience and Expected Future Action*

- Should PBGC anticipate more plans contemplating adoption of two-pool alternative withdrawal liability arrangements? If so, is this seen as a

relatively temporary phenomenon or something that could be a lasting feature of plan risk management?

- Are there plans that considered adopting two-pool alternative withdrawal liability allocation arrangements but decided against it? If so, why?
- What is the role of collective bargaining in the creation and implementation of two-pool alternative withdrawal liability arrangements?
- For a plan that has adopted a two-pool alternative withdrawal liability arrangement that allows existing employers to participate in the new pool, did the arrangement affect the plan's ability to retain existing employers that otherwise would have withdrawn? Please provide examples to the extent possible.
- For a plan that has adopted a two-pool alternative withdrawal liability arrangement, did the arrangement affect the plan's ability to increase its contribution base as a result? Please provide examples to the extent possible.
- For a plan that has adopted a two-pool alternative withdrawal liability arrangement, have there been any legal challenges related to any aspect of the arrangement by employers, unions, or participants and beneficiaries. If so, please provide examples to the extent possible.

#### *PBGC Role*

- Would the public and stakeholders find it useful to learn more from PBGC about innovative means proposed by some plans to balance the interests of all stakeholders and reduce the risk of loss? For instance, some trustees require a commitment to remain in the plan in exchange for withdrawal liability relief. Also, in balancing stakeholder interests, trustees of some plans offer relief from reallocation liability but not redetermination liability, or condition mass withdrawal liability relief on remaining in the plan through plan insolvency.
- How can PBGC better identify the interests of all stakeholders impacted by two-pool alternative withdrawal liability arrangements?
- Should PBGC separately, or at least formally as part of a request for approval of an alternative withdrawal liability allocation method, approve proposed withdrawal liability payment terms and conditions?
- What are the benefits to plans and other stakeholders from PBGC approval of two-pool alternative withdrawal liability arrangements?
- Is there a need for PBGC to more widely communicate its process for considering two-pool alternative

withdrawal liability arrangement approval requests?

#### *Information Issues*

- What is the quality of notices given to all employers and to all employee organizations by plans about the adoption of an amendment to the plan to implement a two-pool method of withdrawal liability allocation? What type(s) of information would participants and beneficiaries find most helpful?
- What information should PBGC require to be submitted in a request for PBGC approval of two-pool alternative withdrawal liability allocation methods? Are there ways to minimize burden on plans and participating employers in providing such information in an initial application?
- What types of actuarial and administrative information and data do multiemployer plans generally maintain that would allow PBGC to analyze the impact on the risk of loss to the plan and participants of settlement terms for mass withdrawal liability for employers jumping to a new pool? Is there some actuarial information, particularly cash flow information that is not readily available?

Although PBGC is specifically requesting comments on the issues and questions discussed above, PBGC also invites comment on any other issue relating to alternative withdrawal liability arrangements. PBGC's consideration of public comments is independent of, and without prejudice to, PBGC's ongoing review and determination of any request for approval of any alternative allocation arrangement.

Signed in Washington, DC.

**W. Thomas Reeder,**

*Director, Pension Benefit Guaranty Corporation.*

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## **RAILROAD RETIREMENT BOARD**

### **Sunshine Act: Notice of Public Meeting**

Notice is hereby given that the Railroad Retirement Board will hold a meeting on January 18, 2017, 10:00 a.m. at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting follows:

#### *Portion open to the public:*

(1) Executive Committee Reports.

The person to contact for more information is Martha P. Rico, Secretary to the Board, Phone No. 312-751-4920.

Dated: January 3, 2017.

**Martha P. Rico,**

Secretary to the Board.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79701; File No. SR-NASDAQ-2016-175]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7022(d)

December 29, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 15, 2016, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7022(d) to increase the monthly fee for Nasdaq’s Daily List and Fundamental Data report from \$1,500 to \$1,750.

The text of the proposed rule change is available on the Exchange’s Web site 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 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 amend Rule 7022(d) to increase the monthly fee for Nasdaq’s Daily List and Fundamental Data report from \$1,500 to \$1,750. The Daily List provides important corporate action data—including new listings, delistings, symbol and name changes, and dividends—for the Nasdaq Stock Market and the Mutual Fund Quotation Service (“MFQS”) to the trading and market data community. Specifically, the Daily List is comprised of the following four data sets:

- *Nasdaq Equity Data*: Provides advance notification of new listings, delistings, corporate name changes, trading symbol changes, market tier changes, and Financial Status Indicator changes that occur on all tiers of the Nasdaq Stock Market.
- *Mutual Fund Data*: Provides advance notification of new listings, delistings, corporate name changes and fund identifier changes for mutual funds, money market funds and unit investment trusts that report via MFQS.
- *Dividends*: Provides advance notification of cash dividends, stock dividends, and stock splits for Nasdaq securities.
- *Next Day Ex-Date*: Summarizes the securities with dividend adjustments to be applied to the previous closing price on the next business day.

In addition, Nasdaq recently enhanced the Daily List by adding (i) a tick pilot indicator that provides information about the status of each security under the Tick Size Pilot Program<sup>3</sup> and (ii) a flag to identify securities that are exchange-traded funds (“ETFs”) and exchange-traded managed funds (“ETMFs”).

Daily List files are available via secured Web site or secured file transfer protocol server and are posted and updated intraday. The Daily List also includes access to historical Daily List data dating back to either 1998 or 1999 (depending on the information).

The Fundamental Data report provides a summary file of the prior

<sup>3</sup> Order Approving the National Market System Plan to Implement a Tick Size Pilot Program by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc., as Modified by the Commission, For a Two-Year Period, Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27514 (May 13, 2015) (File No. 4-657).

day’s trading activity for all Nasdaq-listed issues. Specifically, the report includes the following elements:

- *Security Master Information*: Issue Name, Issue Symbol, Issue Type, Issue Class, Listing Market Tier, Total Shares Outstanding, Public Float and Nasdaq Index Membership.
- *Consolidated Market Statistics*: Daily High Price, Daily Low Price, Daily Last Sale Price, Daily Share Volume, 52 Week High Price, 52 Week Low Price, Year-To-Date Volume
- *Nasdaq Market Center Statistics*: Nasdaq Official Closing Price and Nasdaq Closing Bid/Ask Quotation Prices.

Like the Daily List, Fundamental Data files are available via secured Web site or secured file transfer protocol server. The information is provided on a T+1 basis.

Current fees for the Daily List and Fundamental Data were established in 2013.<sup>4</sup> Since that time, Nasdaq has implemented the enhancements to the Daily List product described above. Additionally, in 2014 Nasdaq introduced several enhancements to the MFQS portion of the Daily List product: A new “test Symbol Flag” field to clearly delineate MFQS test instruments from production instruments; a new “Symbol Reuse Flag” to alert market data vendors that a previously used MFQS symbol is being issued to a new MFQS instrument; and a new “Instrument Registration” field to clearly identify the U.S. regulatory agent responsible for oversight of a given MFQS instrument. Accordingly, to the extent that the proposed price increase exceeds the rate of overall inflation during the preceding four years, Nasdaq believes that it is warranted in light of the increased value of the product to market participants. Moreover, as discussed below, Nasdaq believes that the price of the product is constrained by market forces, such that any increase in the price of the product that was not reasonable in light of the product’s value would be met with a competitive response.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>6</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges

<sup>4</sup> Securities Exchange Act Release No. 68636 (January 11, 2013), 78 FR 3940 (January 17, 2013) (SR-NASDAQ-2013-009).

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.