

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.

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-GEMX-2024-05 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-GEMX-2024-05. 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-GEMX-2024-05 and should be submitted on or before April 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-05949 Filed 3-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99744; File No. SR-NASDAQ-2024-008]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Fees for Connectivity and Co-Location Services

March 15, 2024.

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 March 1, 2024, 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, II, and III below, which Items have been prepared by the self-regulatory organization. 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 for connectivity and co-location services, as described further below.

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 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 the Exchange's fees relating to connectivity and co-location services. Specifically, the Exchange proposes to raise its fees for connectivity and co-location services in General 8, fees assessed for remote multi-cast ITCH ("MITCH") Wave Ports in Equity 7, Section 115, and certain fees related to Nasdaq Testing Facilities in Equity 7, Section 130 by 5.5%, with certain exceptions.

General 8, Section 1 includes the Exchange's fees that relate to connectivity, including fees for cabinets, external telco/inter-cabinet connectivity fees, fees for connectivity to the Exchange, fees for connectivity to third party services, fees for market data connectivity, fees for cabinet power install, and fees for additional charges and services. General 8, Section 2 includes the Exchange's fees for direct connectivity services, including fees for direct circuit connection to the Exchange, fees for direct circuit connection to third party services, and fees for point of presence connectivity. With the exception of the Exchange's GPS Antenna fees,³ the Exchange proposes to increase its fees throughout General 8 by 5.5%.

In addition to increasing fees in General 8, the Exchange also proposes to increase certain fees in Equity 7. First, the Exchange proposes to increase the installation and recurring monthly fees assessed for remote MITCH Wave Ports⁴ in Equity 7, Section 115(g)(1) by 5.5%. In addition, the Exchange proposes to increase certain fees in Section 130(d), which relate to the Nasdaq Testing Facility. Equity 7,

³ The Exchange proposes to exclude the GPS Antenna fees from the proposed fee increase because, unlike the other fees in General 8, the Exchange recently increased its GPS Antenna fees. See Securities Exchange Act Release No. 34-99126 (December 8, 2023), 88 FR 86712 (December 14, 2023) (SR-NASDAQ-2023-052).

⁴ Remote MITCH Wave Ports are for clients co-located at other third-party data centers, through which NASDAQ TotalView ITCH market data is distributed after delivery to those data centers via wireless network.

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Section 130(d)(1)(C) provides that subscribers to the Nasdaq Testing Facility ("NTF") located in Carteret, New Jersey shall pay a fee of \$1,000 per hand-off, per month for connection to the NTF. The hand-off fee includes either a 1Gb or 10Gb switch port and a cross connect to the NTF. In addition, Equity 7, Section 130(d)(1)(C) provides that subscribers shall also pay a one-time installation fee of \$1,000 per hand-off. The Exchange proposes to increase these aforementioned fees by 5.5% to require that subscribers to the NTF shall pay a fee of \$1,055 per hand-off, per month for connection to the NTF and a one-time installation fee of \$1,055 per hand-off.

The proposed increases in fees would enable the Exchange to maintain and improve its market technology and services. With the exception of fees that were established as part of a new service in 2017 (and have remained unchanged since their adoption), the Exchange has not increased any of the fees included in the proposal since 2015, and many of the fees date back to between 2010 and 2014. However, since 2015, there has been notable inflation. Between 2015 and 2024, the dollar had an average inflation rate of 2.97% per year, producing a cumulative price increase of 30.12%.⁵ Notwithstanding inflation, the Exchange historically has not increased its fees every year.⁶ The proposed fees represent a 5.5% increase from the current fees, which is far below inflation since 2015, which exceeded 30%.⁷ The proposed 5.5% increase is comparable to recent inflation rates for one-year periods. For example, in 2023, the inflation rate was 4.12% and in 2022, the inflation rate was 8%.⁸ The Exchange notes that other exchanges have filed for comparable or higher increases in certain connectivity-related fees, based in part on similar rationale.⁹

In offering connectivity and co-location services, the Exchange incurs certain costs, including costs related to the data center facility, hardware and equipment, and personnel. The Exchange's costs to offer such services have risen, in part because the Exchange is subject to annual escalation clauses

that increase certain costs for the Exchange. The Exchange seeks to cover a portion of its increased costs by the proposed 5.5% increase in fees as described above. The Exchange does not seek to cover the full extent of its cost increases with this proposal. In addition, the Exchange continues to invest in improvements that enhance the value of its connectivity and co-location services, including by refreshing hardware and expanding the co-location facility to offer customers additional space and power.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹¹ 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.

This belief is based on a couple factors. First, the current fees do not properly reflect the value of the services and products, as fees for the services and products in question have been static in nominal terms, and therefore falling in real terms due to inflation. Second, exchange fees are constrained by the fact that market participants can choose among 16 different venues for equities trading and 17 different venues for options trading, and therefore no single venue can charge excessive fees for its products without losing customers and market share.

Real Exchange Fees Have Fallen

As explained above, with the exception of fees that were established as part of a new service in 2017 (and have remained unchanged since their adoption), the Exchange has not increased any of the fees included in the proposal since 2015, and many of the fees date back to between 2010 and 2014. This means that such fees have fallen in real terms due to inflation, which has been notable. Between 2015 and 2024, the dollar had an average inflation rate of 2.97% per year, producing a cumulative price increase of 30.12%.¹² Notwithstanding inflation, the Exchange historically has not increased its fees every year.¹³ As noted

above, the Exchange has not increased the fees in this proposal for over 8 years (or in the case of services introduced in 2017, for over 6 years since the services were introduced). Accordingly, the Exchange believes that the proposed fees are reasonable as they represent a 5.5% increase from the current fees, which is far below inflation since 2015, which exceeded 30%.¹⁴ The proposed 5.5% increase is comparable to recent inflation rates for one-year periods. For example, in 2023, the inflation rate was 4.12% and in 2022, the inflation rate was 8%.¹⁵

Not only have real exchange fees fallen, but the Exchange's costs to provide connectivity and co-location services have increased. As stated above, in offering connectivity and co-location services, the Exchange incurs certain costs, including costs related to the data center facility, hardware and equipment, and personnel. The Exchange's costs to offer such services have risen, in part because the Exchange is subject to annual escalation clauses that increase certain costs for the Exchange. The Exchange seeks to cover a portion of its increased costs by the proposed 5.5% increase in fees as described above. The Exchange does not seek to cover the full extent of its cost increases with this proposal. In addition, the Exchange continues to invest in improvements that enhance the value of its connectivity and co-location services, including by refreshing hardware and expanding the co-location facility to offer customers additional space and power.

Customers Have a Choice in Trading Venue

Customers face many choices in where to trade both equities and options. Market participants will continue to choose trading venues and the method of connectivity based on their specific needs. No broker-dealer is required to become a Member of the Exchange. There is no regulatory requirement that any market participant connect to any one exchange, nor that any market participant connect at a particular connection speed or act in a particular capacity on the Exchange, or trade any particular product offered on an exchange. Moreover, membership is not a requirement to participate on the Exchange. Indeed, the Exchange is unaware of any one exchange whose

agreements with customers to account for inflation and rising costs.

¹⁴ Between 2017 and 2024, inflation exceeded 25%. See <https://www.officialdata.org/us/inflation/2017?amount=1> (Last updated February 27, 2024).

¹⁵ See <https://www.officialdata.org/us/inflation/2022?endYear=2023&amount=1>.

⁵ See <https://www.officialdata.org/us/inflation/2015?amount=1> (Last updated February 27, 2024).

⁶ Unregulated competitors providing connectivity and co-location services often have annual price increases written into their agreements with customers to account for inflation and rising costs.

⁷ Between 2017 and 2024, inflation exceeded 25%. See <https://www.officialdata.org/us/inflation/2017?amount=1> (Last updated February 27, 2024).

⁸ See <https://www.officialdata.org/us/inflation/2022?endYear=2023&amount=1>.

⁹ See, e.g., Securities Exchange Act Release No. 34-99550 (February 16, 2024), 89 FR 13763 (February 23, 2024) (SR-ChoeBYX-2024-006).

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4) and (5).

¹² See <https://www.officialdata.org/us/inflation/2015?amount=1> (Last updated February 27, 2024).

¹³ As noted above, unregulated competitors providing connectivity and co-location services often have annual price increases written into their

membership includes every registered broker-dealer. The Exchange also believes substitutable products and services are available to market participants, including, among other things, other equities and options exchanges that a market participant may connect to in lieu of the Exchange, indirect connectivity to the Exchange via a third-party reseller of connectivity, and/or trading of equities or options products within markets which do not require connectivity to the Exchange, such as the Over-the-Counter (OTC) markets.

There are currently 16 registered equities exchanges that trade equities and 17 exchanges offering options trading services. No single equities exchange has more than 15% of the market share.¹⁶ No single options exchange trades more than 14% of the options market by volume and only one of the 17 options exchanges has a market share over 10 percent.¹⁷ This broad dispersion of market share demonstrates that market participants can and do exercise choice in trading venues. Further, low barriers to entry mean that new exchanges may rapidly enter the market and offer additional substitute platforms to further compete with the Exchange and the products it offers.

As such, the Exchange must set its fees, including its fees for connectivity and co-location services and products, competitively. If not, customers may move to other venues or reduce use of the Exchange's services. "If competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior."¹⁸ Accordingly, "the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory."¹⁹ Disincentivizing market participants from purchasing Exchange connectivity would only serve to discourage participation on the Exchange, which ultimately does not benefit the Exchange. Moreover, if the Exchange charges excessive fees, it may stand to lose not only connectivity revenues but also other revenues,

including revenues associated with the execution of orders.

In summary, the proposal represents an equitable allocation of reasonable dues, fees and other charges because Exchange fees have fallen in real terms and customers have a choice in trading venue and will exercise that choice and trade at another venue if exchange fees are not set competitively.

No Unfair Discrimination

The Exchange believes that the proposed fee changes are not unfairly discriminatory because the fees are assessed uniformly across all market participants that voluntarily subscribe to or purchase connectivity and co-location services or products, which are available to all customers.

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.

Nothing in the proposal burdens inter-market competition (the competition among self-regulatory organizations) because approval of the proposal does not impose any burden on the ability of other exchanges to compete. The Exchange operates in a highly competitive market in which market participants can determine whether or not to connect to the Exchange based on the value received compared to the cost of doing so. Indeed, market participants have numerous alternative exchanges that they may participate on and direct their order flow, as well as off-exchange venues, where competitive products are available for trading.

Nothing in the proposal burdens intra-market competition (the competition among consumers) because the Exchange's connectivity and co-location services are available to any customer under the same fee schedule as any other customer, and any market participant that wishes to purchase such services can do so on a non-discriminatory basis.

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 Act.²⁰

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.

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2024-008 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-2024-008. 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,

¹⁶ See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (Last updated January 11, 2024), available at https://www.cboe.com/us/equities/market_statistics/.

¹⁷ See Nasdaq, Options Market Statistics (Last updated January 11, 2024), available at <https://www.nasdaqtrader.com/Trader.aspx?id=OptionsVolumeSummary>.

¹⁸ See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74,770 (December 9, 2008) (SR-NYSEArca-2006-21).

¹⁹ *Id.*

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

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–2024–008 and should be submitted on or before April 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024–05945 Filed 3–20–24; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

[Docket No. FAA–2023–2372]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Application for Certificate of Waiver or Authorization

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request Office of Management and Budget (OMB) approval to renew an information collection. This collection affects persons who have a need to deviate from certain regulations that govern use of airspace within the United States. The request also describes the burden associated with authorizations to make parachute jumps and operate unmanned aircraft (including moored balloons, kites, unmanned rockets, and unmanned free balloons) and small unmanned aircraft systems.

DATES: Written comments should be submitted by April 22, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open

for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Raymond Plessinger by email at: raymond.plessinger@faa.gov; phone: (717) 774–8271.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA’s performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0027.

Title: Application for Certificate of Waiver or Authorization.

Form Numbers: FAA form 7711–2.

Type of Review: Renewal.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 6, 2023 (88 FR 84871). The information collected by FAA Form 7711–2, Application for Certificate of Waiver or Authorization, is reviewed and analyzed by the FAA to determine the type and extent of the intended deviation from prescribed regulations. A certificate of waiver or authorization to deviate is generally issued to the applicant (individuals and businesses) if the proposed operation does not create a hazard to persons, property, or other aircraft, and includes the operation of unmanned aircraft. Applications for certificates of waiver to the provisions of parts 91 and 101 are made by using FAA Form 7711–2. Application for authorization to make parachute jumps (other than emergency or military operations) under part 105, section 105.15 (airshows and meets) also uses FAA Form 7711–2. Application for other types of parachute jumping activities are submitted in various ways; e.g., in writing, in person, by telephone, etc.

Persons authorized to deviate from provisions of part 101 are required to give notice of actual activities. Persons operating in accordance with the provisions of part 101 are also required to give notice of actual activities. In both instances, the notice of information required is the same. Therefore, the burden associated with applications for certificates of waiver or authorization and the burden associated with notices of actual aircraft activities are identified and included in this request for clearance.

Regarding operation of small unmanned aircraft systems under part 107, to obtain a certificate of waiver, an applicant will have to submit a request containing a complete description of the proposed operation and a justification, including supporting data and documentation as necessary that establishes that the proposed operation can safely be conducted under the terms of a certificate of waiver. The FAA expects that the amount of data and analysis required as part of the application will be proportional to the specific relief that is requested.

Respondents: 26,495, including approximately 5,500 annual applications for waivers from certain sections of Part 107.

Frequency: On occasion.

Estimated Average Burden per Response: 45 minutes for non-part 107 waivers; 45.7 hours for part 107 waivers.

Estimated Total Annual Burden: 19,871 hours (not-part 107) + 251,520 (part 107) = 271,391 hours.

Issued in Washington, DC, on March 15, 2024.

D.C. Morris,

Aviation Safety Analyst, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2024–05964 Filed 3–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No.: FHWA–2023–0002]

Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation Discretionary Program Metrics

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: The FHWA is establishing metrics for the purpose of evaluating the effectiveness and impacts of projects under the Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Discretionary Grant Program. The FHWA will select a representative sample of projects to evaluate using these metrics. This notice fulfills FHWA’s requirement to publish the proposed metrics in the **Federal Register** for public comment.

DATES: Submit comments on the proposed metrics by May 20, 2024.

ADDRESSES: To ensure that you do not duplicate your docket submissions,

²¹ 17 CFR 200.30–3(a)(12).