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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-78886; File No. SR-NASDAQ-2016-101)

September 20, 2016

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Add Nasdaq Rule 7046 (Nasdaq Trading Insights)

I.   Introduction

On July 26, 2016, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed

with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of

the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule

change to add Nasdaq Trading Insights, an optional market data service composed of four market

data components. The proposed rule change was published for comment in the Federal Register

on August 8, 2016.[3] On August 15, 2016, the Exchange filed Amendment No. 1 to the proposed

rule change.[4] On September 19, 2016, the Exchange filed Amendment No. 2 to the proposed

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[1]   15 U.S.C. 78s(b)(1).

[2]   17 CFR 240.19b-4.

[3]   See Securities Exchange Act Release No. 78462 (August 2, 2016), 81 FR 52486 ("Notice").

[4]   In Amendment No. 1, the Exchange revised the proposal to specify that a subscribing market participant would receive all four components of the Nasdaq Trading Insights product and would not be able to elect to subscribe to fewer than all four components of the product, as originally proposed. The Exchange also specified that the fee for the product, to be implemented in a separate proposed rule change, would be applicable to the full service and would not be assessed per individual component, as originally proposed. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment. Amendment No. 1 is available on the Commission's website at: https://www.sec.gov/comments/sr-nasdaq-2016-101/nasdaq2016101.shtml.

rule change.[5] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

II. Description of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

The Exchange proposes to offer Nasdaq Trading Insights, a new optional market data product that would be available to all of the Exchange's participants for subscription.[6] Nasdaq Trading Insights would be composed of four market data components: (a) Missed Opportunity – Liquidity; (b) Missed Opportunity – Latency; (c) Peer Benchmarking; and (d) Liquidity Dynamics Analysis.[7] All components of Nasdaq Trading Insights would be offered on a T+1 basis.[8]

The Missed Opportunity – Liquidity component would identify when an order from a market participant could have been increased in size and thus executed more shares.[9] The data included in this component would be unique for each subscribing market participant's port, and

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5   In Amendment No. 2, the Exchange made a technical correction to the proposed rule text to reflect the change it made in Amendment No. 1 that eliminated the ability of market participants to elect to subscribe to fewer than all four components of the Nasdaq Trading Insights product. Because Amendment No. 2 is technical in nature, Amendment No. 2 is not subject to notice and comment. Amendment No. 2 is available on the Commission's website at: https://www.sec.gov/comments/sr-nasdaq-2016-101/nasdaq2016101.shtml.

6   See Notice, supra note 3, at 52489.

7   See proposed Rule 7046. See also Amendment No. 1, supra note 4 and Amendment No. 2, supra note 5. The Exchange will submit a separate filing to address pricing for Nasdaq Trading Insights. See Notice, supra note 3, at 52487 n.3.

8   See Notice, supra note 3, at 52487-88.

9   See proposed Rule 7046(a)(1). The data elements for this component, in summary, are: (i) Issue (Nasdaq symbol for the issue); (ii) Buy/Sell Indicator (side of the market at which the market participants are quoting); (iii) Price (the price (inclusive of decimal point) at which Nasdaq Market Center market participants had order interest for the given security at the given time); (iv) Order Reference Number (the unique reference number assigned to the new order at the time of receipt); (v) Order Entry Time Stamp (the time order was received in the system); (vi) Share Quantity (total number of shares submitted on original order); and (vii) Missed Opportunity Quantity (total number of shares missed). See Notice, supra note 3, at 52487 n.4.

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only that market participant would be eligible to receive this data (i.e., a market participant

would not be able to obtain any other market participant's data).[10] According to the Exchange,

the Missed Opportunity – Liquidity component would provide greater visibility into what was

missed in trading so subscribing market participants may improve their trading performance.[11]

The Missed Opportunity – Latency component would identify by how much time a

marketable order missed executing a resting order that was cancelled or executed.[12] The data

included in this component would be based only on the data of the subscribing market

participant, and a market participant would not be able to receive another market participant's

data.[13] According to the Exchange, as with the Missed Opportunity – Liquidity component, this

component would provide greater visibility into what was missed in trading so subscribing

market participants may improve their trading performance.[14]

The Peer Benchmarking component would rank the quality of a market participant's

trading performance against its peers trading on Nasdaq.[15] Market participants would be able to

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10   See Notice, supra note 3, at 52487.

11   See id.

12   See proposed Rule 7046(a)(2). The data elements for this component, in summary, are:
      (i) Issue (Nasdaq symbol for the issue); (ii) Buy/Sell Indicator (side of the market at
      which the market participants are quoting); (iii) Price (the price (inclusive of decimal
      point) at which Nasdaq Market Center market participants had order interest for the given
      security at the given time); (iv) Order Reference Number (the unique reference number
      assigned to the new order at the time of receipt); (v) Order Size; (vi) Matching Engine
      times for incoming orders; (vii) Missed Opportunity times; and (viii) Reasons for not
      getting fills. See Notice, supra note 3, at 52487 n.5. The Missed Opportunity – Latency
      component would not provide specific information about resting orders on the Exchange
      order book. See id. at 52487.

13   See Notice, supra note 3, at 52487.

14   See id.

15   See proposed Rule 7046(a)(3). The data elements for this component, in summary,
      include: (i) Total Dollar Volume; (ii) Total Share Volume, Share Volume of Liquidity
      Provision and Accessible for Tape A, Tape B and Tape C; (iii) Number of Trades,

view their own trading activity broken out by port with each being ranked independently for each

metric against their peers.[16] The data included in this component would be specific to a

subscribing market participant's port and a market participant would not be able to receive

another market participant's data.[17] According to the Exchange, this component would help

subscribing market participants to have a better idea of how their competitors are performing vis-

à-vis their own trading.[18] Moreover, according to the Exchange, this component would help

subscribing market participants to better understand trending over time, their ranking, and

whether their behavioral changes translate into expected results.[19]

The Liquidity Dynamics Analysis component would contain historical aggregated

metrics and statistics regarding displayed and hidden liquidity on the Exchange for NMS

securities listed on Nasdaq, the New York Stock Exchange, and other U.S. equity exchanges.[20]

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including Hidden Orders and Number of Hidden Trades; (iv) Mean/Median Trade Size; (v) Mean/Median Size of Hidden Orders; (vi) Number of Buy/Sell Orders Received; (vii) Number of Aggressive Orders, Mean Size of Aggressive Buy/Sell Orders; (viii) Number of Passive Orders, Mean Size of Displayed Passive Order, Hidden Passive for Buy and Sell Orders; (ix) Number of Orders at Best Bid/Ask Level; (x) Mean Cost to Execute for Buy and Sell for 1000, 5000, 10000 Shares; (xi) Number of Modified/Cancelled Buy/Sell Orders; (xii) Mean Buy/Sell Price Range; (xiii) Total Number of Buy/Sell Price; (xiv) Number, Mean – Resting Buy/Sell Price Points; (xv) Missed Opportunities – Liquidity, Latency; (xvi) Mean Share Volume Against Hidden, Mean Quote Rotation Time. See Notice, supra note 3, at 52487 n.6.

[16] See Notice, supra note 3, at 52487-88. Each port would be categorized into a peer grouping that would be based upon a given set of metrics that would share similar trading behavior characteristics, and there would be at least ten peers within a security. See id. at 52488.

[17] See id. at 52488.

[18] See id.

[19] See id.

[20] See proposed Rule 7046(a)(4) and Notice, supra note 3, at 52488. The data elements for this component, in summary, are: (i) Issue (Nasdaq symbol for the issue); (ii) Start Time; (iii) End Time; (iv) Side (identifies buy vs. sell side); (v) Level (level associated with the price); (vi) Average Depth (average depth of the book); (vii) Minimum Depth (minimum

The data would be analyzed every 30 seconds, starting at 10 minutes prior to the market open to 10 minutes after the market close, and it would include all orders that are visible, anonymous, or non-displayed for each security.[21] According to the Exchange, subscribing market participants may use this component to better understand when accessible liquidity exists, which may help these market participants improve their trading performance.[22]

III.   Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[24] which requires, among other things, that the rules of a national securities exchange be 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 investors and the public interest.

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depth of the book); (viii) Maximum Depth (maximum depth of the book); (ix) Standard Deviation Depth; (x) Average Price; (xi) Minimum Price (minimum price in the book); (xii) Maximum Price (maximum price in the book); (xiii) Median Price (median price in the book); (xiv) Standard Deviation – Price; (xv) Minimum Distance from the QBBO; (xvi) Maximum Distance from the QBBO; (xvii) Mean Distance from the QBBO; (xviii) Median Distance from the QBBO; and (xix) Standard Deviation-Distance from QBBO. See Notice, supra note 3, at 52488 n.7. This component would include statistics regarding quantity and price at each of the top five price levels per buy/sell side and per stated time period. See proposed Rule 7046(a)(4).

[21]   See Notice, supra note 3, at 52488.

[22]   See id. For a more detailed description of the proposed rule change, see Notice, supra note 3; Amendment No. 1, supra note 4; and Amendment No. 2, supra note 5.

[23]   In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[24]   15 U.S.C. 78f(b)(5).

As noted above, Nasdaq Trading Insights would be an optional market data product available to all of the Exchange's participants for subscription, and would be designed to provide additional information and insight to subscribing market participants regarding their trading activity on the Exchange.[25] Also, as noted above, Nasdaq Trading Insights would not be a real-time market data product and would be provided to subscribers on a T+1 basis.[26] Moreover, where Nasdaq Trading Insights data is specific to one market participant, only that market participant would receive such data.[27] According to the Exchange, some market participants may already be able to derive the same data that is provided by some of the Nasdaq Trading Insights components based on executions and algorithms that those market participants have created.[28] As the Exchange noted, Nasdaq Trading Insights would increase transparency, particularly for market participants who may not have the expertise to generate the same information.[29]

Based on the Exchange's representations with respect to the Nasdaq Trading Insights product and for the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the Act.

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[25]   See supra notes 6, 11, 14, 18, 19, and 22, and accompanying text. See also Notice, supra note 3, at 52487.

[26]   See supra note 8 and accompanying text.

[27]   See supra notes 10, 13, and 17, and accompanying text.

[28]   See Notice, supra note 3, at 52489.

[29]   See id. at 52487.

IV.   Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[30] that the

proposed rule change (SR-NASDAQ-2016-101), as modified by Amendment Nos. 1 and 2, be,

and hereby is, approved.

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

authority.[31]

Robert W. Errett
Deputy Secretary

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[30]   15 U.S.C. 78s(b)(2).

[31]   17 CFR 200.30-3(a)(12).