

connectivity, which will assist subscribers with risk management.⁶⁰ Further, Nasdaq removed the requirement that subscribers absolve Nasdaq of liability if they take a 1Gb Ultra connection.⁶¹

Nasdaq noted that the UTP Plan does not explicitly address connectivity fees. As to concerns raised by the commenters that Nasdaq has not substantiated the need for the third party connectivity service, Nasdaq noted that the “UTP Operating Committee has had and continues to have input into the bandwidth recommendation”⁶² and states that Nasdaq lowered the recommendation in response to the Committee’s recommendation and would be ready to lower the recommendation again if the operating committee were to direct it to do so.⁶³ In addition, as noted above, Nasdaq amended the proposal to provide two connections for UTP SIP data free of charge and additional connections at lower fees that reflect some of the costs associated with providing the connectivity.⁶⁴ The Commission believes that Nasdaq has adequately addressed the concerns raised by the comments in its response letters and its amendments to the proposal.⁶⁵

IV. Solicitation of Comments on the Proposal as Amended

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the filing, as amended, 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 email to rule-comments@sec.gov. Please include File Number SR–NASDAQ–2016–120 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–2016–120. 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 Web site (<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 Web site viewing and printing in the Commission’s Public Reference Room 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–2016–120 and should be submitted on or before May 25, 2017.

V. Accelerated Approval of Proposed Rule Change, as Amended

The Commission finds good cause to approve the proposed rule change, as amended, prior to the 30th day after the date of publication of the notice of the amended proposal in the **Federal Register**. As noted above, Nasdaq amended the proposal to respond to the concerns raised by the commenters. Specifically, the Exchange is proposing to offer two free UTP-only connections via a 1Gb Ultra or 10Gb Ultra port. Nasdaq also replaced the Assumption of Liability form with a Capacity Acknowledgement form, such that customers are no longer required to hold Nasdaq harmless if they choose to take a 1Gb Ultra connection. The Exchange also proposes to provide additional UTP-only connectivity for an installation fee of \$100 per connection and an ongoing monthly fee of \$100 per connection. Because these changes address concerns raised by the commenters, the Commission finds good cause for approving the proposed rule change, as amended, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.⁶⁶

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASDAQ–2016–120), as amended, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁷

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80550; File No. SR–NYSEMKT–2016–99]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Amending Rule 104—Equities To Delete Subsection (g)(i)(A)(III) Prohibiting Designated Market Makers From Establishing a New High (Low) Price on the Exchange in a Security the DMM Has a Long (Short) Position During the Last Ten Minutes Prior to the Close of Trading

April 28, 2017.

On October 27, 2016, NYSE MKT (“NYSE MKT” 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 amending Rule 104—Equities to delete subsection (g)(i)(A)(III), which prohibits Designated Market Makers (“DMMs”) from establishing, during the last ten minutes of trading before the close, a new high (low) price for the day on the Exchange in a security in which the DMM has a long (short) position. The proposed rule change was published for comment in the **Federal Register** on November 17, 2016.³

On December 20, 2016, the Commission extended to February 15, 2017, the time period in which to approve the proposal, disapprove the proposal, or institute proceedings to determine whether to approve or disapprove the proposal.⁴ On February 15, 2017, the Commission instituted

⁶⁷ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 79283 (Nov. 10, 2016), 81 FR 81210 (Nov. 17, 2016).

⁴ See Securities Exchange Act Release No. 79611 (Dec. 20, 2016), 81 FR 95205 (Dec. 27, 2016).

⁶⁰ See Amendment No. 5.

⁶¹ See Amendment No. 5.

⁶² See Nasdaq Letter I at 5.

⁶³ See *id.*

⁶⁴ See Nasdaq Letter I and Nasdaq Letter II; Amendment No. 5.

⁶⁵ See Nasdaq Letter I and Nasdaq Letter II and amendments to the proposal.

⁶⁶ 15 U.S.C. 78s(b)(2).

proceedings under Section 19(b)(2)(B) of the Act⁵ to determine whether to approve or disapprove the proposed rule change.⁶ On March 16, 2017, the Exchange filed a response to the Order Instituting Proceedings.⁷

Section 19(b)(2) of the Act⁸ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on November 17, 2016.⁹ The 180th day after publication of the notice of the filing of the proposed rule change in the **Federal Register** is May 16, 2017.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁰ designates July 15, 2017, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NYSE-MKT-2016-99).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Eduardo A. Aleman,
Assistant Secretary.

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⁵ 15 U.S.C. 78s(b)(2)(B).

⁶ See Securities Exchange Act Release No. 80043 (Feb. 15, 2017), 82 FR 11379 (Feb. 22, 2017) (“Order Instituting Proceedings”). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change’s consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be “designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,” and “to protect investors and the public interest.” See *id.*, 81 FR at 11380.

⁷ See letter to Brent J. Fields, Secretary, Commission, from Elizabeth King, General Counsel and Corporate Secretary, New York Stock Exchange LLC, dated March 16, 2017, available at <https://www.sec.gov/comments/sr-nyse-2016-71/nyse201671-1645043-148163.pdf>.

⁸ 15 U.S.C. 78s(b)(2).

⁹ See *supra* note 3.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80552; File No. SR-NYSE-2016-71]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Amending Rule 104 To Delete Subsection (g)(i)(A)(III) Prohibiting Designated Market Makers From Establishing a New High (Low) Price on the Exchange in a Security the DMM Has a Long (Short) Position During the Last Ten Minutes Prior to the Close of Trading

April 28, 2017.

On October 27, 2016, New York Stock Exchange LLC (“NYSE” 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 amending Rule 104 to delete subsection (g)(i)(A)(III), which prohibits Designated Market Makers (“DMMs”) from establishing, during the last ten minutes of trading before the close, a new high (low) price for the day on the Exchange in a security in which the DMM has a long (short) position. The proposed rule change was published for comment in the **Federal Register** on November 17, 2016.³

On December 20, 2016, the Commission extended to February 15, 2017, the time period in which to approve the proposal, disapprove the proposal, or institute proceedings to determine whether to approve or disapprove the proposal.⁴ On February 15, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁵ to determine whether to approve or disapprove the proposed rule change.⁶ Following the Order

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 79284 (Nov. 10, 2016), 81 FR 81222 (Nov. 17, 2016).

⁴ See Securities Exchange Act Release No. 79612 (Dec. 20, 2016), 81 FR 95205 (Dec. 27, 2016).

⁵ 15 U.S.C. 78s(b)(2)(B).

⁶ See Securities Exchange Act Release No. 80044 (Feb. 15, 2017), 82 FR 11388 (Feb. 22, 2017) (“Order Instituting Proceedings”). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change’s consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be “designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles

Instituting Proceedings, the Commission received a comment letter supporting the proposal.⁷ On March 16, 2017, the Exchange filed a response to the Order Instituting Proceedings.⁸

Section 19(b)(2) of the Act⁹ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on November 17, 2016.¹⁰ The 180th day after publication of the notice of the filing of the proposed rule change in the **Federal Register** is May 16, 2017.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹¹ designates July 15, 2017, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NYSE-2016-71).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Eduardo A. Aleman,
Assistant Secretary.

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of trade,” and “to protect investors and the public interest.” See *id.*, 81 FR at 11388.

⁷ See letter to Eduardo A. Aleman, Assistant Secretary, Commission, from Stephen John Berger, Managing Director, Government and Regulatory Policy, Citadel Securities, dated May 15, 2017, available at <https://www.sec.gov/comments/sr-nyse-2016-71/nyse201671-1643039-147158.pdf>.

⁸ See letter to Brent J. Fields, Secretary, Commission, from Elizabeth King, General Counsel and Corporate Secretary, New York Stock Exchange LLC, dated March 16, 2017, available at <https://www.sec.gov/comments/sr-nyse-2016-71/nyse201671-1645043-148163.pdf>.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ See *supra* note 3.

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(57).