

Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.³ The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

³ The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81182; File No. SR-NASDAQ-2017-070]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Qualification Criteria Under the Qualified Market Maker Program at Rule 7014

July 20, 2017.

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 July 10, 2017, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 qualification criteria under the Qualified Market Maker Program at Rule 7014. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on July 1, 2017.³

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 the Exchange's fees at Rule 7014 to raise the combined Consolidated Volume (adding and removing liquidity) criteria from the current requirement that a QMM have at least 3.5% to now require at least 3.7%, which a QMM must have to be eligible for a \$0.0029 per share executed charge for orders in securities listed on exchanges other than Nasdaq priced at \$1 or more per share that access liquidity on the Nasdaq Market Center.

A QMM is a member that makes a significant contribution to market quality by providing liquidity at the national best bid and offer (“NBBO”) in a large number of stocks for a significant portion of the day.⁴ In addition, the

³ The Exchange initially filed the proposed pricing changes on June 28, 2017 (SR-NASDAQ-2017-066). On July 10, 2017, the Exchange withdrew that filing and submitted this filing. This filing corrects a marking error to the Exhibit 5 and clarifies the statutory basis discussion.

⁴ See Rule 7014(d).

member must avoid imposing the burdens on Nasdaq and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation.⁵ The designation reflects the QMM's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities. In return for its contributions, certain financial benefits are provided to a QMM with respect to its order activity, as described under Rule 7014(e). These benefits include a lower rate charged for executions of orders in securities priced at \$1 or more per share that access liquidity on the Nasdaq Market Center.⁶

Under Rule 7014(e), the Exchange charges a QMM \$0.0030 per share executed for removing liquidity in Nasdaq-listed securities priced at \$1 or more, and \$0.00295 per share executed for removing liquidity in securities priced at \$1 or more per share listed on exchanges other than Nasdaq, if the QMM's volume of liquidity added through one or more of its Nasdaq Market Center MPIDs during the month (as a percentage of Consolidated Volume) is not less than 0.80%. The Exchange assesses a charge of \$0.0029 per share executed for removing liquidity in securities priced at \$1 or more per share listed on exchanges other than Nasdaq if the QMM has a combined Consolidated Volume (adding and removing liquidity) of at least 3.5%, and the QMM also meets the QMM Tier 2 qualification criteria. The QMM Tier 2 qualification criteria requires a QMM to execute shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.90% of Consolidated Volume during the month.

The Exchange is proposing to increase the combined Consolidated Volume (adding and removing liquidity) requirement to at least 3.7%. This increase is reflective of the Exchange's desire to provide incentives to attract order flow to the Exchange in securities listed on exchanges other than Nasdaq in return for significant market-improving behavior. The modest increase in the qualification criteria will help ensure that QMMs are providing significant market-improving behavior.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the

objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁸ 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.

The Exchange believes that the \$0.0029 per share executed charge for removing liquidity in securities priced at \$1 or more per share listed on exchanges other than Nasdaq will continue to be reasonable because the fee will remain unchanged. When the Exchange adopted the fee,⁹ it believed that assessing the fee was reasonable because it was set at a level that is lower than the standard removal fee of \$0.0030 per share executed, thereby providing an incentive to market participants, and it was also based on the Exchange's analysis of the cost to the Exchange of offering a lower fee, thereby decreasing the revenue derived from transactions by members that qualify for the fee, and the desired benefit to the market provided by the members that meet the fee's qualification criteria. The Exchange noted that the fee's qualification criteria provided an incentive to members to increase their participation in the market as measured by Consolidated Volume, which benefits all market participants. The Exchange also noted that members may qualify for a \$0.00295 per share executed fee for removing liquidity in Tape A or B securities priced at \$1 or more if the member's volume of liquidity added through one or more of its Nasdaq Market Center MPIDs during the month (as a percentage of Consolidated Volume) is not less than 0.80%. The Exchange explained that the proposed fee would continue to require a member to both qualify under the Tier 2 criteria that requires the member to execute shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.90% of Consolidated Volume during the month, and also provide an increased combined Consolidated Volume (adding and removing liquidity) requirement (which the Exchange is proposing to increase from at least 3.5% to 3.7%). Consequently, the Exchange noted that to qualify for a lower transaction fee for removing liquidity in Tape A or B securities under the QMM Program, the

member must both provide greater Consolidated Volume through adding liquidity during the month (*i.e.*, 0.90% versus 0.80%) and provide a certain level of combined Consolidated Volume, which accounts for both adding liquidity and removing liquidity. As noted above, the Exchange is not proposing to change the fee and the analysis described above remains valid. Accordingly, the Exchange believes that the fee remains reasonable.

The Exchange believes that the increase to the combined Consolidated Volume qualification criteria is an equitable allocation and is not unfairly discriminatory because it is reflective of the success that the lower charge tier has had in promoting beneficial market participation, as measured by combined Consolidated Volume (adding and removing liquidity). The Exchange believes that the level of combined Consolidated Volume may be increased without resulting in a significant reduction in the number of QMMs that will likely qualify for the lower transaction fee. Consequently, the beneficial market participation should remain the same, and possibly increase. Moreover, the Exchange is not limiting which QMMs may qualify for the reduced charge. As noted, the QMM Program is intended to encourage members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, thereby benefitting Nasdaq and other investors by committing capital to support the execution of orders. To receive the \$0.0029 per share executed charge, a member must meet the Tier 2 criteria, which requires the QMM to execute shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent above 0.90% of Consolidated Volume during the month. In addition, the QMM must provide a certain level of combined Consolidated Volume, which accounts for both adding liquidity and removing liquidity. The Exchange is proposing to increase the required combined Consolidated Volume requirement to make the qualification criteria required to receive the incentive more meaningful to QMMs in terms of the beneficial market activity required to receive the reduced charge, which is reflective of the Exchange's belief that QMMs may continue to qualify for the reduced charge while also providing more beneficial market participation. The Exchange uses Consolidated Volume as a measure of the QMM's activity in comparison to that of the market as a whole. Thus, the

⁵ *Id.*

⁶ See Rule 7014(e).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

⁹ See Securities Exchange Act Release No. 78977 (September 29, 2016), 81 FR 69140 (October 5, 2016) (SR-NASDAQ-2016-032).

modestly increased combined Consolidated Volume criteria required to qualify for the fee does not discriminate unfairly and is equitably allocated, as eligibility for the fee is tied to the QMM's performance in comparison to other participants in aggregate.

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.

In this instance, although the change to the QMM program may limit the benefits of the program in non-Nasdaq-listed securities to the extent QMMs that currently qualify for the \$0.0029 per share executed charge are unable to meet the more stringent combined Consolidated Volume requirement, the incentive in question will remain in place and is itself reflective of the need for exchanges to offer significant financial incentives to attract order flow in return for meaningful market-improving behavior. The Exchange believes that the proposed qualification criteria will not negatively impact who will qualify for the \$0.0029 per share executed charge but will rather have a positive impact on overall market quality as QMMs increase their participation in the market to qualify for the lower charge. If, however, the Exchange is incorrect and the changes proposed herein are unattractive to QMMs, it is likely that Nasdaq will lose market share as a result. Accordingly, Nasdaq does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their

competitive standing in the financial markets.

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.¹⁰

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2017-070 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-2017-070. 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, 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; 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-2017-070, and should be submitted on or before August 16, 2017.

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

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81174; File No. SR-GEMX-2017-32]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Market Maker Quotations

July 20, 2017.

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 July 6, 2017, Nasdaq GEMX, LLC ("GEMX" 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.

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).