SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment Nos. 1, 2, and 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified By Amendment Nos. 1, 2, and 3, to List and Trade Corporate Non-Convertible Bonds on Nasdaq

November 13, 2018.

I. Introduction

On August 27, 2018, 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 list and trade corporate non-convertible bonds on the Exchange. The proposed rule change was published for comment in the Federal Register on September 6, 2018.3 On October 12, 2018, the Exchange filed Amendment No. 1 to the proposed rule change.4 On October 16, 2018, pursuant to Section 19(b)(2) of the Act,5 the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.6 On November 7, 2018, the Exchange filed Amendment No. 2 to the proposed rule change.7 On November 8, 2018, the Exchange filed Amendment No. 3 to the proposed rule change.8 The Commission received no comment letters on the proposed rule change. The Commission is publishing notice of the filing of Amendment Nos. 1, 2, and 3 to solicit comment from interested persons and is approving the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 on an accelerated basis.

II. Description of the Proposal, as Modified by Amendment Nos. 1, 2, and 3

The Exchange proposes to amend its rules to permit the initial and continued listing of non-convertible corporate debt securities (“bonds” or “non-convertible bonds”) on Nasdaq and to establish fees for listing those bonds.9 The Exchange also proposes to adopt rules to trade such listed non-convertible bonds.

A. Listing Rules

For the initial listing of a non-convertible bond, the Exchange proposes to require that the following conditions be satisfied: (1) The principal amount outstanding or market value must be at least $5 million; and (2) the issuer of the non-convertible bond must have one class of equity security that is listed on the Exchange, the New York Stock Exchange LLC (“NYSE”), or NYSE American LLC (“NYSE American”).10 The Exchange proposes the following requirements for the continued listing of a non-convertible bond: (1) The market value or principal amount of non-convertible bonds outstanding is at least $400,000;11 and (2) the issuer must be able to meet its obligations on the listed non-convertible bonds.12

The Exchange proposes to amend its current Rule 5810(c)(3) to provide that the failure of an issuer of a non-convertible bond to meet the $400,000 public float requirement stipulated above for a period of 30 consecutive business days will constitute a deficiency. In such an event, the Exchange’s Listings Qualifications Department will promptly notify the deficient issuer, and the issuer will have a period of 180 calendar days from such notification to regain compliance. Compliance will be deemed to be regained by meeting the $400,000 public

4 In Amendment No. 1, the Exchange made clarifying and technical revisions to the proposal, including to the proposed rule text. The amendment is available at: https://www.sec.gov/comments/sr-nasdaq-2018-070/srnasdaq2018070-4514560-176013.pdf.
6 See Securities Exchange Act Release No. 84439, 83 FR 53339 (October 22, 2018). The Commission designated December 5, 2018, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.
7 In Amendment No. 2, the Exchange made additional clarifying and technical revisions to the proposal, including to the proposed rule text. The amendment is available at: https://www.sec.gov/comments/sr-nasdaq-2018-070/srnasdaq2018070-4629939-176409.pdf.
8 In Amendment No. 3, the Exchange made two clarifying and technical revisions to the proposal, including to the proposed rule text. The amendment is available at: https://www.sec.gov/comments/sr-nasdaq-2018-070/srnasdaq2018070-4630086-176412.pdf.

Eduardo A. Aleman,
Assistant Secretary.

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float requirement for a minimum of 10 consecutive business days, unless the Listing Qualifications Department exercises its discretion to extend this 10-day period as set forth in Rule 5810(c)(3)(G).

The Exchange also proposes to amend its current Rule 5810(c)(1) to provide that the failure of an issuer to meet its obligations on the non-convertible bonds, as determined by the Exchange’s Listings Qualifications Department, would result in immediate suspension and the commencement of delisting proceedings.

In addition to the proposed quantitative requirements for listing non-convertible bonds, the issuer of listed bonds would have to comply with other requirements that are generally applicable to companies listed on Nasdaq pursuant to Rule 5250 (Obligations for Companies Listed on The Nasdaq Stock Market). The Exchange proposes to amend its current Rule 5250(e)(2) to require issuers of non-convertible bonds to provide at least 10 calendar days advance notice to the Exchange of certain corporate actions, including redemptions (full or partial calls), tender offers, changes in par value, and changes in identifier (e.g., CUSIP number or symbol). In addition, the Exchange proposes to amend the definition of a “Substitution Listing Event” in its Rule 5005(a)(41) to provide that a change in the obligor of a listed debt security would constitute a Substitution Listing Event and thus require the issuer to notify the Exchange pursuant to Rule 5250(e)(4). In addition to the Exchange’s rules that would apply to issuers of non-convertible bonds that list on Nasdaq, the Exchange states that such issuers would also be required to register non-convertible bonds listed on the Exchange with the Commission pursuant to Section 12(a) of the Act.

Finally, the Exchange proposes to make a non-substantive change to its current Rule 5515(b)(4) to replace references to the American Stock Exchange with NYSE American.

B. Listing Fees

The Exchange proposes to impose a non-refundable application fee of $5,000 to list a class of non-convertible bonds. The Exchange proposes to waive this application fee if a company will be switching the listing market for its non-convertible bonds from NYSE or NYSE American to the Exchange. The Exchange also proposes to impose an annual fee of $5,000 on the issuer of each class of non-convertible bonds listed pursuant to Rule 5702. A company that switches the listing market for its non-convertible bonds from NYSE or NYSE American to the Exchange would not be liable for the annual fee until January 1 of the calendar year following the effective date of the non-convertible bonds listing on the Exchange.

The Exchange also proposes to clarify rule text relating to listing fees for convertible bonds.

C. Trading Rules

In conjunction with the Exchange’s proposal to adopt listing rules for non-convertible bonds, the Exchange is proposing to trade such listed non-convertible bonds on an electronic system (“Nasdaq Bond Exchange”) and is proposing rules to govern such trading. The Exchange proposes that all orders in non-convertible bonds will be received, processed, executed, and reported by means of the Nasdaq Bond Exchange may already disclose certain information required by Section 12(a) of the Act.

The Exchange proposes to allow Users of the Nasdaq Bond Exchange to enter two types of orders: (1) Nasdaq Bond Exchange Good for Day Limit Orders, and (2) Nasdaq Bond Exchange Fill-or-Kill All-Or-None Orders. A Nasdaq Bond Exchange Good for Day Limit Order is an order to buy or sell a stated quantity of units of non-convertible bonds at a specified price or at a better price that, if not executed or cancelled, will expire at the end of the trading session on the day on which it is entered. A Nasdaq Bond Exchange Fill-or-Kill All-Or-None Order is a market order that is to be executed immediately in its entirety against one or more contra parties at the best prices available, or if it is not executed immediately in its entirety, is cancelled. All orders on the Nasdaq Bond Exchange will be displayed and will be anonymous.

2. Trading Units

The minimum unit of trading on the Nasdaq Bond Exchange will be one non-convertible bond unless the issuer otherwise specifies a larger minimum unit of trading in the bond indenture agreement. The Nasdaq Bond Exchange will accept and display bids and offers in bonds priced to three decimal places.

3. Order Entry and Execution

To post an order in a particular bond on the Nasdaq Bond Exchange, a User will be required to enter certain basic information including CUSIP number, order quantity, order type (e.g., Nasdaq Bond Exchange Good for Day Limit Order), price (up to three decimals), and

14 See Nasdaq Rule 5250, requiring, among other things, that issuers provide certain information to the Exchange, make public disclosure of certain material information, and file all required periodic financial reports.

15 The Exchange proposes to make this change with respect to convertible and non-convertible bonds.

16 In addition to Nasdaq Rule 5250, the Exchange notes that, currently, the Rule 5600 Series, which sets forth certain corporate governance requirements for listed issuers, would apply to non-convertible bonds listed on the Exchange.

17 Section 12(a) requires that, in order for an exchange member, broker or dealer to effect a transaction in a security on a national securities exchange, a registration must be effective “as to such security for such exchange.” See 15 U.S.C. 78(aa). The that, because the Exchange is proposing as an initial listing requirement that the issuer currently list a class of equity security on the Exchange, NYSE, or NYSE American, listed issuers of non-convertible bonds

23 See proposed Rule 4008B(a).

24 A “User” is any Nasdaq Member that has elected to receive access to the Nasdaq Bond Exchange. See Proposed Rule 4008B(b)(2)(D).

25 The Exchange proposes to allow Users to enter two types of orders: (1) Nasdaq Bond Exchange Good for Day Limit Orders, and (2) Nasdaq Bond Exchange Fill-or-Kill All-Or-None Orders. A Nasdaq Bond Exchange Good for Day Limit Order is an order to buy or sell a stated quantity of units of non-convertible bonds at a specified price or at a better price that, if not executed or cancelled, will expire at the end of the trading session on the day on which it is entered. A Nasdaq Bond Exchange Fill-or-Kill All-Or-None Order is a market order that is to be executed immediately in its entirety against one or more contra parties at the best prices available, or if it is not executed immediately in its entirety, is cancelled. All orders on the Nasdaq Bond Exchange will be displayed and will be anonymous.

26 See proposed Rule 4008B(b)(1).

27 A “User” is any Nasdaq Member that has elected to receive access to the Nasdaq Bond Exchange. See Proposed Rule 4008B(b)(2)(D).


29 See proposed Rule 4008B(b)(2)(B)(i).


31 See proposed Rule 4008B(c).

32 See proposed Rule 4008B(d). The Exchange states that bonds priced to three decimal places is the market standard.
The Exchange will charge no fees for posting orders or executing trades on the Nasdaq Bond Exchange.

4. Clearing

According to the Exchange, most orders matched on the Nasdaq Bond Exchange will be locked-in trades and will be submitted without an omnibus account to the National Securities Clearing Corporation using Universal Trade Capture and then to the Depository Trust Company ("DTC") for clearance and settlement. Settlement of corporate bond trades will be consistent with current convention, i.e., two day settlement, and bonds that are not eligible for settlement at DTC will be settled manually ("ex-clearing") between the two counterparties.

5. Bond Trading Session

The Nasdaq Bond Exchange will have one trading session per trading day from 8:30 a.m. until 4:00 p.m. E.T. ("Bond Trading Session") during which non-convertible bonds will be available for trading. There will be no pre-market or post-market session; the Nasdaq Bond Exchange will immediately start processing orders as they are entered upon opening.

Orders submitted outside of the Bond Trading Session will not be accepted.

6. Clearly Erroneous Executions

All matters related to clearly erroneous transactions executed on the Nasdaq Bond Exchange will be initiated and adjudicated pursuant to Nasdaq Rule 11890, which governs the process for addressing clearly erroneous trades. A "Clearly Erroneous Execution" on the Nasdaq Bond Exchange refers to an execution involving an obvious error in any term of an order participating in such execution, such as price, unit of trading, or identification of the non-convertible bond.

A User that receives an erroneous execution may request the Exchange to review the transaction. A request for review of an execution must include certain information, including the time of the transaction, security symbol, number of bonds, price, side (bought or sold), and factual basis for believing that the trade is clearly erroneous. The request for review must be submitted within 30 minutes of the trade in question. The other party (or parties) to the trade will be notified of the request for review. Thereafter, an Exchange official will review the transaction and make a determination as to whether it was clearly erroneous within 30 minutes of receipt of the complaint, but in no case later than the start of the Bond Trading Session on the following trading day.

The Exchange proposes that, when determining whether a trade in non-convertible bonds listed on the Nasdaq Bond Exchange is clearly erroneous, a Nasdaq official may consider any and all relevant factors of an execution on a case by case basis including, but not limited to, the following: (i) Execution price; (ii) volume and volatility of a non-convertible bond; (iii) news released for the issuer of the non-convertible bond and/or the related equity security; (iv) trading halts; (v) corporate actions; (vi) general market conditions; (vii) the rating of the non-convertible bond; (viii) interest and/or coupon rate; (ix) maturity date; (x) yield curves; (xi) prior print, if available within a reasonable time frame; (xii) executions inconsistent with the trading pattern of a non-convertible bond; (xiii) current day's trading high/low; (xiv) recent day's and week's trading high/low; (xv) executions outside the 52-week high/low; (xvi) effect of a single large order creating several prints at various prices; and (xvii) quotes and executions of other market centers.

The parties will be promptly notified of the reviewer's determination and, in the event that the Nasdaq official determines that the transaction in dispute is clearly erroneous, the official will declare the transaction null and void. If the reviewer determines that the execution is not clearly erroneous, then no corrective action will be taken in relation to the transaction. If one party does not agree with the determination, then that party may request further review or an appeal to the Nasdaq Review Council pursuant to

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33 See Notice, supra note 3, at 45292.
34 See proposed Rule 4000B(g)(2).
35 See id.
36 See Notice, supra note 3, at 45292.
37 Specifically, buy and sell orders in the Nasdaq Bond Exchange will be displayed, matched, and executed in the Bond Trading Session in the following sequence: (i) According to price, with the highest bid price and the lowest offer price receiving highest priority; and (b) within each price, according to the time of the order entry in the Nasdaq Bond Exchange. See proposed Rule 4000B(g)(1).
38 See Notice, supra note 3, at 45292.
39 See id.
40 The Exchange states that Users may be interested in self-match prevention in order to run multiple strategies at once that may sit on opposite sides of the book. See Notice, supra note 3, at 45292.
41 See proposed Rule 4000B(g)(1)(C).
42 See Notice, supra note 3, at 45292.
43 See id.
44 See Notice, supra note 3, at 45292.
45 See id.
46 See id.
47 See proposed Rule 4000B(f).
48 See Notice, supra note 3, at 45293.
49 See proposed Rule 4000B(f).
50 See Notice, supra note 3, at 45293.
51 See proposed Rule 4000B(f).
52 See Notice, supra note 3, at 45293.
53 See Rule 11890(a)(2)(C)(i) as proposed to be amended.
54 See Rule 11890(a)(2)(A).
55 See Rule 11890(a)(2).
56 See proposed Rule 11890(a)(2)(C)(4). These criteria would be in lieu of the criteria presently used to determine clearly erroneous executions of equity securities, which are set forth in Rule 11890(a)(2)(C)(1)–(C)(3). See id.
57 See Rule 11890(a)(2)(B).
58 See Notice, supra note 3, at 45293.
the procedures set forth in Rule 11890(c).

Rule 11890(b) provides that, in the event of any disruption or a malfunction in the operation of any electronic communications and trading facilities of the Exchange, including the Nasdaq Bond Exchange, in which the nullification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, the President of the Exchange or any designated officer or senior level employee of the Exchange (each, a “Senior Official”) may, without the need for a request for review, review such transactions and determine if any are erroneous.

In addition, Rule 11890(b) further provides that a Senior Official may, on his or her own motion, review potentially erroneous executions. In such situations, the Senior Official will rely on the criteria set forth in proposed Rule 11890(a)(2)(C)(4). Any such action of the Senior Official must be taken within 30 minutes of detection of the erroneous transaction (in extraordinary circumstances, no later than the start of the Bond Trading Session on the trading day following the date of execution(s) under review), and each party to the erroneous transaction will be notified of the situation and the specific action as soon as practicable. Subject to certain exceptions, a User may appeal an erroneous determination made by a Senior Official acting on his or her own motion or pursuant to a system disruption or malfunction to the Nasdaq Review Council.

7. Halting and Suspending Bond Trading on the Exchange

The Exchange proposes to halt or suspend trading in a non-convertible bond on the Nasdaq Bond Exchange in certain circumstances.

Proposed Rule 4000B(i)(1) provides that the Exchange may halt or suspend trading in non-convertible bonds listed on the Nasdaq Bond Exchange when: (1) In the exercise of its regulatory function, the Exchange determines such action is necessary and appropriate to maintain a fair and orderly market, to protect investors, or is in the public interest, due to extraordinary circumstances or unusual market conditions; (2) a class of equity that is issued by the same issuer as the non-convertible bond has been halted or suspended by, or delisted from, the Exchange or its primary listing market (NYSE or NYSE American), as applicable; (3) news reports have a material impact on the non-convertible bond, its issuer, or related stock of its issuer; or (4) the non-convertible bond is to be called for redemption or will mature or become subject to retirement, and thereafter it will be subject to delisting. In the event of a trading halt or suspension under any of the foregoing circumstances, a halt or suspension message will be disseminated by the Exchange to subscribers to the Nasdaq Corporates Totalview Data Feed (discussed below) to signal the commencement and end of the halt or suspension.

Upon commencement of a halt or suspension, all pending orders in the Nasdaq Bond Exchange will be cancelled and new orders entered into the Nasdaq Bond Exchange during a bond halt or suspension will not be accepted. The Nasdaq Bond Exchange will resume accepting new orders and trading once the Exchange declares an end to a bond halt or suspension.

8. Dissemination of Trading Information

The Exchange will disseminate via the Nasdaq Corporates Totalview Data Feed, a real-time data feed, best bid and offer information for non-convertible bonds for which there are orders posted to the Nasdaq Bond Exchange’s order book, as well as last sale information (including sale price and trade size) for trades executed on the Nasdaq Bond Exchange. The Exchange states that the Nasdaq Corporates Totalview Data Feed would reflect all orders in time sequence in the Nasdaq Bond Exchange’s order book. The Exchange states that the Nasdaq Corporates Totalview Data Feed will be available free of charge to those who request access and agree to the Exchange’s terms.

9. Access to the Nasdaq Bond Exchange System

The Exchange proposes that Members of the Exchange that enter into a Nasdaq U.S. Services Agreement and elect to receive access to the Nasdaq Bond Exchange on their Member application form will be authorized Users and able to access the Nasdaq Bond Exchange. The Exchange states that existing Members of the Exchange will not be required to amend their Nasdaq U.S. Services Agreements to obtain access to the Nasdaq Bond Exchange; rather, they will be required to complete a form expressing their interest in becoming a Nasdaq Bond Exchange User.

The Exchange states that Users of the Nasdaq Bond Exchange will gain access to the system via direct or indirect electronic linkages utilizing the Financial Information Exchange or “FIX” protocol. The Nasdaq Bond Exchange will use the FIX protocol for message transmittal, including for the entry, modification, and cancellation of orders in non-convertible bonds.

The Exchange states that Users may establish connectivity to the Nasdaq Bond Exchange either directly or through third-party connectivity providers. The Exchange will not charge any fees for FIX port connectivity to the Nasdaq Bond Exchange or to its disaster recovery system.

10. Reports and Recordkeeping

The Exchange proposes that Users of the Nasdaq Bond Exchange will have to comply with all relevant rules of the

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64 See supra note 45.
65 See supra note 45.
66 See supra note 45.
67 See supra note 45.
68 See supra note 45.
69 See supra note 45.
70 See supra note 45.
71 See supra note 45.
72 See supra note 45.
73 See supra note 45.
Exchange and the Commission in relation to reports and recordkeeping of transactions on the Nasdaq Bond Exchange, including, but not limited to, Rules 17a–3 and 17a–4 under the Act.78

11. Regulation and Surveillance

The Exchange represents that it will regulate the Nasdaq Bond Exchange and enforce compliance with its rules by leveraging its existing infrastructure for operating a national securities exchange in compliance with Section 6 of the Act.79 The Exchange states that its existing disciplinary rules and processes, set forth in its Rule 8000 and 9000 Series, will govern the discipline processes, set forth in its Rule 8000 and 9000 Series, will govern the discipline

The Exchange states that its leveraging its existing infrastructure for enforcing compliance with its rules by leveraging its existing infrastructure for operating a national securities exchange in compliance with Section 6 of the Act.80 The Exchange further notes that the Exchange's initial listing standards for non-convertible bonds are reasonably designed to ensure that investors receive the protections of the Exchange's listing standards.81

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, is consistent with the requirements of Section 6 of the Act87 and the rules and regulations thereunder applicable to the Exchange.88 Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,89 which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and Section 6(b)(5) of the Act,90 which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

A. Listing Rules

The development and enforcement of adequate initial and continued listing standards for securities listed on a national securities exchange is of critical importance to financial markets and the investing public. The Commission believes that the Exchange’s proposal is reasonably designed to determine which non-convertible bonds warrant listing on the Exchange and ensure that investors receive the protections of the Exchange’s listing standards. Specifically, the Exchange’s initial listing standards are reasonably designed to ensure that only companies capable of meeting their financial obligations are eligible to have their non-convertible bonds listed on Nasdaq, as the proposal requires these issuers to also have one class of equity security listed on Nasdaq, NYSE, or NYSE American. In addition, by limiting listing to non-convertible bond issues with a principal amount outstanding or a market value of at least $5 million, the proposal is reasonably designed to exclude from Nasdaq Bond Exchange securities that would not have sufficient liquidity for a fair and orderly market. Furthermore, as noted by the Exchange, the proposed initial listing standards for non-convertible bonds are substantially similar to those of NYSE and NYSE American.91

For continued listing standards, the Exchange requires that the market value or principal amount of non-convertible bonds outstanding is at least $400,000 and the issuer must be able to meet its obligations on the listed non-convertible bonds. The Commission believes that such continued listing requirements for non-convertible bonds are reasonably designed to enable the Exchange to identify listed issuers that may have insufficient resources to meet their financial obligations or whose non-convertible bonds may lack adequate trading depth and liquidity. In addition, as noted by the Exchange, the proposed continued listing standards for non-convertible bonds are identical to the continued listing requirements for bonds imposed by NYSE American.92 Furthermore, the Commission notes that the Exchange’s current rules allow Nasdaq to request additional information, either public or non-public, that it deems necessary to make a determination regarding a company’s continued listing.93

The Exchange represents that its proposal to amend Rule 5250(c)(3) to require an issuer to provide at least 10 calendar days advance notice of certain corporate actions related to non-convertible bonds listing on the Exchange will aid its Listings Qualification Department in assessing an issuer’s compliance with the continued listing standards.94 The Commission believes that requiring an issuer of non-convertible bonds to

78 See proposed Rule 4000B(i).
79 See Notice, supra note 3, at 45294.
80 See id.
81 See id.
82 See Notice, supra note 3, at 45291.
83 See Notice, supra note 3, at 45294.
84 See id.
85 See id.
86 See id.
87 See id. The Nasdaq Bond Exchange backup data center will be in Chicago, Illinois, and the Exchange represents that it will be designed to resume operations of the Nasdaq Bond Exchange, in the event of a system failure, in accordance with the requirements of Regulation Systems Compliance and Integrity. See id.
89 In approving these proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).
91 See Notice, supra note 3, at 45295, n. 58.
92 See Notice, supra note 3, at 45289–90. Both NYSE and NYSE American require that a debt issue have an aggregate market value or principal amount of no less than $5 million for initial listing. See Section 102.03 of the NYSE Listed Company Manual and Section 104 of the NYSE American Company Guide. NYSE also requires that the issuer of the debt security has equity securities listed on the exchange or the debt security meets an alternative standard. See Section 102.03 of the NYSE Listed Company Manual. NYSE American requires that the issuer of the debt security has equity securities listed on the exchange, NYSE, or Nasdaq, or meets an alternative standard. See Section 104 of the NYSE American Company Guide.
93 See Notice, supra note 3, at 45290. See also Section 1003(b)(iv) of the NYSE American Company Guide.
94 See id. at 45290. See also Nasdaq Rule 5250(c)(1).
In addition, the proposed anti-
internalization exception to price-time
priority execution set forth in proposed
Rule 4000B(g)(1)(C) is substantially
similar to Nasdaq’s anti-internalization
exception.96

The Commission notes that the
Nasdaq Bond Exchange will only trade
non-convertible bonds that are listed on
Nasdaq. The Commission further notes that the Exchange is not charging any
fees to post or execute trades on the
Nasdaq Bond Exchange or for FIX port
c connectivity to the Nasdaq Bond
Exchange or for connectivity to the
Nasdaq Bond Exchange’s disaster
recovery system. In addition, the
Nasdaq Corporates Totalview Data Feed
will be available free of charge to those
who request access.

Section 11(a) of the Act97 prohibits a
member of a national securities
exchange from effecting transactions on
that exchange for its own account, the
account of an associated person, or an
account over which it or its associated
person exercises investment discretion,
unless an exception applies. The
Commission notes that this general
prohibition would not generally impact
trading on the Nasdaq Bond Exchange
because Rule 11a1–4(T) under the Act98
deems transactions in bonds on a
national securities exchange for a
member’s own account to be consistent
with Section 11(a). Similarly, the
Commission notes that Section 11(b) of the
Act99 and Rule 11b–1 thereunder,100 which pertain to
specialists and market-makers, would not be implicated because there would
be no specialists or market makers on the
Nasdaq Bond Exchange.

C. Listing Fees

The Commission believes that the
proposed listing fees for non-convertible
bonds are an equitable allocation of
reasonable fees. The Exchange states
that the proposed $5,000 application fee
and $5,000 annual fee for listing non-
convertible bonds will support the
Exchange’s regulatory program to
review and qualify debt issuances for
listing.101 In addition, the Exchange states that the proposed fees are
competitive with the initial and annual
fees that are currently assessed by NYSE
American for the listing of bonds,102 and
that the proposed $5,000
application fee is the same as the
application fee it currently charges for
convertible bonds.103

The proposed application listing fees
will be applicable to all issuers seeking
to list non-convertible bonds on the
Exchange, other than issuers who
switch their listing to the Exchange from
NYSE or NYSE American. The Commission
believes that the proposed waiver of the
application fee and the first year’s
annual fee for issuers that switch their
listings to Nasdaq from NYSE or NYSE
American is reasonable and not unfairly
discriminatory. The Exchange states that
less work is required to process a listing
application for a security that is already
listed on another exchange than it is to
process an application for listing a new
security.104 In addition, the Exchange
states that issuers that have already paid
their annual fees to NYSE or NYSE
American would be disincentivized to
switch their listings to the Exchange
without the waiver.105 Finally, the
Exchange notes that it currently waives
certain listing and annual fees for
issuers of equity securities who transfer
their listings to the Exchange from
another national securities exchange.106

IV. Solicitation of Comments on
Amendment Nos. 1, 2, and 3 to the
Proposed Rule Change

Interested persons are invited to
submit written data, views, and

(March 20, 2007), 72 FR 14631 (March 28, 2007).

97 See NASD Rule 5770(a)(4). The Exchange
states that proposed Rule 4000B(g)(1)(C) is based on
Nasdaq Rule 4757(a)(4). See Notice, supra note 3,
at 45292.


99 17 CFR 240.11a1–4(T).


101 See Notice, supra note 3, at 45295.

102 See id. NYSE American charges an initial
listing fee for bonds of $100 per $1 million
principal amount (or fraction thereof) with a
minimum fee of $5,000 and a maximum fee of
$10,000. NYSE American charges an annual fee of
$5,000 for listed bonds and debentures of
corporations whose equity securities are not listed on
NYSE American. See NYSE American Listed
Company Guide Sections 140 and 141.

103 See Nasdaq Rule 5920.

104 See Notice, supra note 3, at 45295.

105 See Notice, supra note 3, at 45296.

70418 (Sept. 16, 2013), 78 FR 57909 (Sept. 20, 2013)
arguments concerning whether Amendment Nos. 1, 2, and 3 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–2018–070 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–2018–070. 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 website (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 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 10:00 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2018–070 and should be submitted on or before December 10, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 prior to the thirtieth day after the date of publication of notice of the filing of Amendment Nos. 1, 2, and 3 in the Federal Register. The Commission notes that Amendment Nos. 1, 2, and 3 provide clarifications and additional information to the proposed rule change. The changes and additional information in Amendment Nos. 1, 2, and 3 assist the Commission in finding that the proposal is consistent with the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act, to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, on an accelerated basis.VI.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASDAQ–2018–070), as modified by Amendment Nos. 1, 2, and 3, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.
Eduardo A. Aleman,
Assistant Secretary.

SECURITIES AND EXCHANGE COMMISSION


November 13, 2018.

On September 10, 2018, NYSE Arca, Inc. (“Exchange”) filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) 4 and Rule 19b–4 thereunder, a proposed rule change to amend listing standards set forth in NYSE Arca Rule 5.2–E[(j)[6](B)(I)] relating to criteria applicable to components of an index underlying an issue of Equity Index-Linked Securities. The proposed rule change was published for comment in the Federal Register on October 1, 2018. 5 The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act 6 provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 15, 2018. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on 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, designates December 30, 2018, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca–2018–67).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.
Eduardo A. Aleman,
Assistant Secretary.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33295; 812–14920]

ABR Dynamic Funds, LLC, et al.

November 14, 2018.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under