

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="22"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2015"/> - * <input type="text" value="045"/>
		Amendment No. (req. for Amendments *) <input type="text"/>

Filing by Financial Industry Regulatory Authority  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
Section 3C(b)(2) * <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \*  Last Name \*

Title \*

E-mail \*

Telephone \*  Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date

By

(Name \*)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of the Proposed Rule Change**

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend FINRA Rule 7640A (Data Products Offered By Nasdaq) to identify the Nasdaq Last Sale Plus (“NLS Plus”) data feed, which distributes FINRA/Nasdaq Trade Reporting Facility (“FINRA/Nasdaq TRF” or “TRF”) data to third parties.

Below is the text of the proposed rule change. Proposed new language is underlined.

\* \* \* \* \*

**7000. CLEARING, TRANSACTION AND ORDER DATA REQUIREMENTS,  
AND FACILITY CHARGES**

\* \* \* \* \*

**7600. DATA PRODUCTS AND CHARGES FOR TRADE REPORTING  
FACILITY SERVICES**

**7600A. DATA PRODUCTS AND CHARGES FOR FINRA/NASDAQ TRADE  
REPORTING FACILITY SERVICES**

\* \* \* \* \*

**7640A. Data Products Offered by NASDAQ**

(a) through (b) No Change.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

(c) The following data products offered by Nasdaq pursuant to Nasdaq rules use covered market data:

(1) No Change.

(2) Nasdaq Last Sale and Nasdaq Last Sale Plus Data Feeds under Nasdaq Rule 7039; and

(3) No Change.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

At its meeting on June 9, 2005, the Executive Committee of the Board of Governors of FINRA (then known as NASD) authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA has filed the proposed rule change for immediate effectiveness and requested waiver of the 30-day operative delay. FINRA is proposing that the proposed rule change will be operative immediately upon filing.

**3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

(a) Purpose

FINRA Rule 7640A describes FINRA's practices relating to the distribution of market data for over-the-counter ("OTC") transactions in NMS stocks generated through the operation of the FINRA/Nasdaq TRF by Nasdaq, Inc. ("NASDAQ"), the Business Member under the Limited Liability Company agreement governing the FINRA/Nasdaq

TRF (the “LLC Agreement”),<sup>2</sup> and its affiliate, The NASDAQ Stock Market LLC (“Nasdaq”). Rule 7640A was adopted pursuant to SR-FINRA-2014-002, which describes in greater detail the TRF framework and FINRA’s oversight of TRF operations and use of FINRA/Nasdaq TRF data in Nasdaq market data products.<sup>3</sup> As described in that filing, although the FINRA/Nasdaq TRF is a facility of FINRA and TRF data is OTC data for which FINRA is responsible under the Act, NASDAQ, as the Business Member, has the contractual right to develop market data products using TRF data. As such, use of FINRA/Nasdaq TRF data is conducted through Nasdaq, is subject to a separate proposed rule change filed with the Commission by Nasdaq in its capacity as a self-regulatory organization (“SRO”) and must satisfy the appropriate statutory standards.

Paragraph (a) of Rule 7640A codifies the contractual arrangement between FINRA and NASDAQ and provides for the overall structure relating to the FINRA/Nasdaq TRF and the permissible use of FINRA/Nasdaq TRF data. Paragraph (b) provides that fees for market data products that use FINRA/Nasdaq TRF data are charged by Nasdaq under Nasdaq rules. Nasdaq must adopt such fees pursuant to a proposed rule

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<sup>2</sup> As approved by its board of directors and the Commission, effective September 8, 2015, NASDAQ changed its legal name from The NASDAQ OMX Group, Inc. to Nasdaq, Inc. See Nasdaq, Inc. Form 8-K Current Report (filed September 8, 2015) (available at [www.sec.gov/Archives/edgar/data/1120193/000119312515314459/d48431d8k.htm](http://www.sec.gov/Archives/edgar/data/1120193/000119312515314459/d48431d8k.htm)).

FINRA and NASDAQ are in the process of amending the LLC Agreement to reflect the name change. FINRA will file a separate proposed rule change to update the FINRA manual, including Rule 7640A, accordingly.

<sup>3</sup> See Securities Exchange Act Release No. 71350 (January 17, 2014), 79 FR 4218 (January 24, 2014) (Notice of Filing and Immediate Effectiveness; File No. SR-FINRA-2014-002).

change submitted to the Commission under Section 19(b) of the Act, and must demonstrate that the fees are consistent with the requirements of the Act, including that they are reasonable, equitably allocated and not unfairly discriminatory. Paragraph (c) identifies Nasdaq rules relating to products that use FINRA/Nasdaq TRF data, including Nasdaq Rule 7039 relating to the Nasdaq Last Sale (“NLS”) data feeds.<sup>4</sup>

On June 22, 2015, the Commission approved proposed rule change SR-NASDAQ-2015-055, pursuant to which Nasdaq proposed to amend Nasdaq Rule 7039 to fully reflect the NLS Plus data feed and to rename the rule “Nasdaq Last Sale and Nasdaq Last Sale Plus Data Feeds.”<sup>5</sup> As described in Nasdaq’s filing, NLS Plus has been offered since 2010 via NASDAQ OMX Information LLC, a subsidiary of NASDAQ. As further described in Nasdaq’s filing, in offering NLS Plus, NASDAQ OMX Information LLC is acting as a redistributor of the last sale products already offered by NASDAQ’s three equity exchanges (Nasdaq, NASDAQ OMX BX and NASDAQ OMX PSX), as well as volume information provided by the securities information processors (“SIPs”). As such, NLS Plus includes transactions from all of NASDAQ’s equity markets, as well as the FINRA/Nasdaq TRF data that is included in the current NLS product, as contemplated under Rule 7640A. In other words, NASDAQ OMX Information LLC redistributes last sale data that has been the subject of a proposed rule change filed with the Commission at

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<sup>4</sup> Pursuant to Nasdaq Rule 7039, the NLS data feeds combine both Nasdaq Market Center and FINRA/Nasdaq TRF last sale data and provide real-time execution price, volume and time information for each reported sale.

<sup>5</sup> See Securities Exchange Act Release No. 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015) (Order Approving File No. SR-NASDAQ-2015-055).

prices that have also been the subject of a proposed rule change filed with the Commission.

Because the NLS Plus product provides a subset of the same last sale data that is disseminated by the SIPs, the feed is structured so that data is not provided to the NLS Plus product sooner than it is provided to the SIPs. NASDAQ currently monitors for potential latency by comparing the time of the dissemination of FINRA/Nasdaq TRF data to the SIPs and to the NLS data feeds, including NLS Plus. In that regard, NASDAQ has made specific commitments and undertakings with respect to its products that use FINRA/Nasdaq TRF data, including that, consistent with the Commission's interpretation of Rule 603(a) under SEC Regulation NMS, it will not transmit any FINRA/Nasdaq TRF transactions data to a vendor or user any sooner than the FINRA/Nasdaq TRF transmits the data to the SIPs.<sup>6</sup> Thus, FINRA believes that the NLS Plus product satisfies the requirement that FINRA/Nasdaq TRF transaction data not be disseminated to a vendor or user any sooner than such data is transmitted to the SIPs.

Accordingly, FINRA is proposing to amend Rule 7640A(c)(2) to identify the NLS Plus product in the cross-reference to Nasdaq Rule 7039. FINRA believes that the proposed rule change will ensure that Rule 7640A accurately reflects the Nasdaq products that use FINRA/Nasdaq TRF data.

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<sup>6</sup> See Securities Exchange Act Release No. 71350 (January 17, 2014), 79 FR 4218 (January 24, 2014) (Notice of Filing and Immediate Effectiveness; File No. SR-FINRA-2014-002).

On July 24, 2015, Nasdaq filed proposed rule change SR-NASDAQ-2015-088 to amend Nasdaq Rule 7039 with language indicating fees for NLS Plus.<sup>7</sup> Specifically, firms that receive the NLS Plus feed pay annual administration fees for applicable NASDAQ equity exchanges (\$1,000 for Nasdaq, \$1,000 for BX and \$1,000 for PSX), are liable for NLS or Nasdaq Basic fees under Nasdaq Rules and, pursuant to SR-NASDAQ-2015-088, pay a data consolidation fee of \$350 per month. As stated in Nasdaq's filing, the NLS Plus fee is a codification of the existing NLS Plus fee, with the addition of a monthly data consolidation fee, and as such, meets the requirements of the Act.

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing that the proposed rule change will be operative immediately upon filing.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>8</sup> which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change will provide greater clarity to members and the public regarding Nasdaq market data products that use FINRA/Nasdaq TRF data by specifically identifying NLS Plus under Rule 7640A. In addition, consistent with SR-NASDAQ-2015-055, NLS Plus is an additional means by which investors may access

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<sup>7</sup> See Securities Exchange Act Release No. 75600 (August 4, 2015), 80 FR 47968 (August 10, 2015) (Notice of Filing and Immediate Effectiveness; File No. SR-NASDAQ-2015-088).

<sup>8</sup> 15 U.S.C. 78q-3(b)(6).



information about securities transactions, thereby providing investors with additional options for accessing information that may help inform their trading decisions. In approving the NLS Plus product, the Commission specifically determined that it is consistent with the Act.<sup>9</sup>

FINRA also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,<sup>10</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. As noted above, the fees for the NLS Plus product are not charged by FINRA under FINRA rules, but rather are charged by Nasdaq under Nasdaq rules. Such fees have been adopted pursuant to a proposed rule change submitted to the Commission pursuant to Section 19(b) of the Act.<sup>11</sup> In its rulemaking, Nasdaq was required to demonstrate that the fees are consistent with the requirements of the Act, including that they are reasonable, equitably allocated and not unfairly discriminatory. In its filing, Nasdaq stated that the fees for the NLS Plus product are simply a codification of the existing fee structure, with the addition of the consolidation fee. Nasdaq further stated that the fees apply equally to all firms that choose to subscribe to the NLS Plus product, and no firm is required to use NLS Plus.

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<sup>9</sup> See Securities Exchange Act Release No. 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015) (Order Approving File No. SR-NASDAQ-2015-055).

<sup>10</sup> 15 U.S.C. 78o-3(b)(5).

<sup>11</sup> See Securities Exchange Act Release No. 75600 (August 4, 2015), 80 FR 47968 (August 10, 2015) (Notice of Filing and Immediate Effectiveness; File No. SR-NASDAQ-2015-088).

**4. Self-Regulatory Organization’s Statement on Burden on Competition**

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As described above, use of FINRA/Nasdaq TRF data is conducted through Nasdaq, is subject to a separate proposed rule change filed with the Commission by Nasdaq in its capacity as an SRO and must satisfy the appropriate statutory standards. As such, Nasdaq has the obligation of assessing the potential impacts of the NLS Plus product in its own rulemaking. As described more fully in SR-NASDAQ-2015-055, Nasdaq’s ability to offer and price NLS Plus is constrained by: (1) competition between exchanges and other trading platforms that compete with each other in a variety of dimensions; (2) the existence of inexpensive real-time consolidated data and market-specific data and free delayed consolidated data; and (3) the inherent contestability of the market for proprietary last sale data.

**5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

Written comments were neither solicited nor received.

**6. Extension of Time Period for Commission Action**

Not applicable.

**7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>13</sup> in that the proposed rule

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

change does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and does not become operative for 30 days after filing or such shorter time as the Commission may designate.

FINRA requests that the Commission waive the requirement that the rule change, by its terms, not become operative for 30 days after the date of the filing as set forth in Rule 19b-4(f)(6)(iii),<sup>14</sup> inasmuch as amended Nasdaq Rule 7039 has already been approved by the Commission and is in effect. FINRA proposes that the proposed rule change will be operative immediately upon filing. In accordance with Rule 19b-4(f)(6),<sup>15</sup> FINRA submitted written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as the Commission may designate, as specified in Rule 19b-4(f)(6)(iii) under the Act.<sup>16</sup>

**8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change is based on Nasdaq Rule 7039, which was amended to fully reflect the NLS Plus product, pursuant to a proposed rule change approved by the Commission.<sup>17</sup>

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<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> See Securities Exchange Act Release No. 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015) (Order Approving File No. SR-NASDAQ-2015-055).

**9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**11. Exhibits**

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-FINRA-2015-045)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 7640A (Data Products Offered By Nasdaq)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on , Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) 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 FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. 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

FINRA is proposing to amend FINRA Rule 7640A (Data Products Offered By Nasdaq) to identify the Nasdaq Last Sale Plus (“NLS Plus”) data feed, which distributes FINRA/Nasdaq Trade Reporting Facility (“FINRA/Nasdaq TRF” or “TRF”) data to third parties.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

Below is the text of the proposed rule change. Proposed new language is in italics.

\* \* \* \* \*

**7000. CLEARING, TRANSACTION AND ORDER DATA REQUIREMENTS,  
AND FACILITY CHARGES**

\* \* \* \* \*

**7600. DATA PRODUCTS AND CHARGES FOR TRADE REPORTING  
FACILITY SERVICES**

**7600A. DATA PRODUCTS AND CHARGES FOR FINRA/NASDAQ TRADE  
REPORTING FACILITY SERVICES**

\* \* \* \* \*

**7640A. Data Products Offered by NASDAQ**

(a) through (b) No Change.

(c) The following data products offered by Nasdaq pursuant to Nasdaq rules use covered market data:

(1) No Change.

(2) Nasdaq Last Sale and Nasdaq Last Sale Plus Data Feeds under Nasdaq Rule 7039; and

(3) No Change.

\* \* \* \* \*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

FINRA Rule 7640A describes FINRA's practices relating to the distribution of market data for over-the-counter ("OTC") transactions in NMS stocks generated through the operation of the FINRA/Nasdaq TRF by Nasdaq, Inc. ("NASDAQ"), the Business Member under the Limited Liability Company agreement governing the FINRA/Nasdaq TRF (the "LLC Agreement"),<sup>4</sup> and its affiliate, The NASDAQ Stock Market LLC ("Nasdaq"). Rule 7640A was adopted pursuant to SR-FINRA-2014-002, which describes in greater detail the TRF framework and FINRA's oversight of TRF operations and use of FINRA/Nasdaq TRF data in Nasdaq market data products.<sup>5</sup> As described in that filing, although the FINRA/Nasdaq TRF is a facility of FINRA and TRF data is OTC data for which FINRA is responsible under the Act, NASDAQ, as the Business Member, has the

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<sup>4</sup> As approved by its board of directors and the Commission, effective September 8, 2015, NASDAQ changed its legal name from The NASDAQ OMX Group, Inc. to Nasdaq, Inc. See Nasdaq, Inc. Form 8-K Current Report (filed September 8, 2015) (available at [www.sec.gov/Archives/edgar/data/1120193/000119312515314459/d48431d8k.htm](http://www.sec.gov/Archives/edgar/data/1120193/000119312515314459/d48431d8k.htm)).

FINRA and NASDAQ are in the process of amending the LLC Agreement to reflect the name change. FINRA will file a separate proposed rule change to update the FINRA manual, including Rule 7640A, accordingly.

<sup>5</sup> See Securities Exchange Act Release No. 71350 (January 17, 2014), 79 FR 4218 (January 24, 2014) (Notice of Filing and Immediate Effectiveness; File No. SR-FINRA-2014-002).

contractual right to develop market data products using TRF data. As such, use of FINRA/Nasdaq TRF data is conducted through Nasdaq, is subject to a separate proposed rule change filed with the Commission by Nasdaq in its capacity as a self-regulatory organization (“SRO”) and must satisfy the appropriate statutory standards.

Paragraph (a) of Rule 7640A codifies the contractual arrangement between FINRA and NASDAQ and provides for the overall structure relating to the FINRA/Nasdaq TRF and the permissible use of FINRA/Nasdaq TRF data. Paragraph (b) provides that fees for market data products that use FINRA/Nasdaq TRF data are charged by Nasdaq under Nasdaq rules. Nasdaq must adopt such fees pursuant to a proposed rule change submitted to the Commission under Section 19(b) of the Act, and must demonstrate that the fees are consistent with the requirements of the Act, including that they are reasonable, equitably allocated and not unfairly discriminatory. Paragraph (c) identifies Nasdaq rules relating to products that use FINRA/Nasdaq TRF data, including Nasdaq Rule 7039 relating to the Nasdaq Last Sale (“NLS”) data feeds.<sup>6</sup>

On June 22, 2015, the Commission approved proposed rule change SR-NASDAQ-2015-055, pursuant to which Nasdaq proposed to amend Nasdaq Rule 7039 to fully reflect the NLS Plus data feed and to rename the rule “Nasdaq Last Sale and Nasdaq Last Sale Plus Data Feeds.”<sup>7</sup> As described in Nasdaq’s filing, NLS Plus has been offered since 2010 via NASDAQ OMX Information LLC, a subsidiary of NASDAQ. As further described in Nasdaq’s filing, in offering NLS Plus, NASDAQ OMX Information LLC is

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<sup>6</sup> Pursuant to Nasdaq Rule 7039, the NLS data feeds combine both Nasdaq Market Center and FINRA/Nasdaq TRF last sale data and provide real-time execution price, volume and time information for each reported sale.

<sup>7</sup> See Securities Exchange Act Release No. 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015) (Order Approving File No. SR-NASDAQ-2015-055).



acting as a redistributor of the last sale products already offered by NASDAQ's three equity exchanges (Nasdaq, NASDAQ OMX BX and NASDAQ OMX PSX), as well as volume information provided by the securities information processors ("SIPs"). As such, NLS Plus includes transactions from all of NASDAQ's equity markets, as well as the FINRA/Nasdaq TRF data that is included in the current NLS product, as contemplated under Rule 7640A. In other words, NASDAQ OMX Information LLC redistributes last sale data that has been the subject of a proposed rule change filed with the Commission at prices that have also been the subject of a proposed rule change filed with the Commission.

Because the NLS Plus product provides a subset of the same last sale data that is disseminated by the SIPs, the feed is structured so that data is not provided to the NLS Plus product sooner than it is provided to the SIPs. NASDAQ currently monitors for potential latency by comparing the time of the dissemination of FINRA/Nasdaq TRF data to the SIPs and to the NLS data feeds, including NLS Plus. In that regard, NASDAQ has made specific commitments and undertakings with respect to its products that use FINRA/Nasdaq TRF data, including that, consistent with the Commission's interpretation of Rule 603(a) under SEC Regulation NMS, it will not transmit any FINRA/Nasdaq TRF transactions data to a vendor or user any sooner than the FINRA/Nasdaq TRF transmits the data to the SIPs.<sup>8</sup> Thus, FINRA believes that the NLS Plus product satisfies the requirement that FINRA/Nasdaq TRF transaction data not be disseminated to a vendor or user any sooner than such data is transmitted to the SIPs.

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<sup>8</sup> See Securities Exchange Act Release No. 71350 (January 17, 2014), 79 FR 4218 (January 24, 2014) (Notice of Filing and Immediate Effectiveness; File No. SR-FINRA-2014-002).

Accordingly, FINRA is proposing to amend Rule 7640A(c)(2) to identify the NLS Plus product in the cross-reference to Nasdaq Rule 7039. FINRA believes that the proposed rule change will ensure that Rule 7640A accurately reflects the Nasdaq products that use FINRA/Nasdaq TRF data.

On July 24, 2015, Nasdaq filed proposed rule change SR-NASDAQ-2015-088 to amend Nasdaq Rule 7039 with language indicating fees for NLS Plus.<sup>9</sup> Specifically, firms that receive the NLS Plus feed pay annual administration fees for applicable NASDAQ equity exchanges (\$1,000 for Nasdaq, \$1,000 for BX and \$1,000 for PSX), are liable for NLS or Nasdaq Basic fees under Nasdaq Rules and, pursuant to SR-NASDAQ-2015-088, pay a data consolidation fee of \$350 per month. As stated in Nasdaq's filing, the NLS Plus fee is a codification of the existing NLS Plus fee, with the addition of a monthly data consolidation fee, and as such, meets the requirements of the Act.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing that the proposed rule change will be operative immediately upon filing.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>10</sup> which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change will provide greater clarity to members and the

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<sup>9</sup> See Securities Exchange Act Release No. 75600 (August 4, 2015), 80 FR 47968 (August 10, 2015) (Notice of Filing and Immediate Effectiveness; File No. SR-NASDAQ-2015-088).

<sup>10</sup> 15 U.S.C. 78o-3(b)(6).

public regarding Nasdaq market data products that use FINRA/Nasdaq TRF data by specifically identifying NLS Plus under Rule 7640A. In addition, consistent with SR-NASDAQ-2015-055, NLS Plus is an additional means by which investors may access information about securities transactions, thereby providing investors with additional options for accessing information that may help inform their trading decisions. In approving the NLS Plus product, the Commission specifically determined that it is consistent with the Act.<sup>11</sup>

FINRA also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,<sup>12</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. As noted above, the fees for the NLS Plus product are not charged by FINRA under FINRA rules, but rather are charged by Nasdaq under Nasdaq rules. Such fees have been adopted pursuant to a proposed rule change submitted to the Commission pursuant to Section 19(b) of the Act.<sup>13</sup> In its rulemaking, Nasdaq was required to demonstrate that the fees are consistent with the requirements of the Act, including that they are reasonable, equitably allocated and not unfairly discriminatory. In its filing, Nasdaq stated that the fees for the NLS Plus product are simply a codification of the existing fee structure, with the addition of the consolidation fee. Nasdaq further

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<sup>11</sup> See Securities Exchange Act Release No. 75257 (June 22, 2015), 80 FR 36862 (June 26, 2015) (Order Approving File No. SR-NASDAQ-2015-055).

<sup>12</sup> 15 U.S.C. 78o-3(b)(5).

<sup>13</sup> See Securities Exchange Act Release No. 75600 (August 4, 2015), 80 FR 47968 (August 10, 2015) (Notice of Filing and Immediate Effectiveness; File No. SR-NASDAQ-2015-088).

stated that the fees apply equally to all firms that choose to subscribe to the NLS Plus product, and no firm is required to use NLS Plus.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As described above, use of FINRA/Nasdaq TRF data is conducted through Nasdaq, is subject to a separate proposed rule change filed with the Commission by Nasdaq in its capacity as an SRO and must satisfy the appropriate statutory standards. As such, Nasdaq has the obligation of assessing the potential impacts of the NLS Plus product in its own rulemaking. As described more fully in SR-NASDAQ-2015-055, Nasdaq's ability to offer and price NLS Plus is constrained by: (1) competition between exchanges and other trading platforms that compete with each other in a variety of dimensions; (2) the existence of inexpensive real-time consolidated data and market-specific data and free delayed consolidated data; and (3) the inherent contestability of the market for proprietary last sale data.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed,

or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

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 necessary or appropriate in the public interest, for the protection of investors, or 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2015-045 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

All submissions should refer to File Number SR-FINRA-2015-045. This file number should be included on the subject line if e-mail 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2015-045 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

Robert W. Errett  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).