



August 5, 2024

VIA ELECTRONIC DELIVERY

Ms. Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Modify the Application of Bid Price Compliance Period, Release No. 34-100461, File No. SR-NASDAQ-2024-029 (July 3, 2024)

Dear Ms. Countryman:

Virtu Financial, Inc. (“Virtu”)¹ respectfully submits this letter in response to the above-referenced rule filing submitted by The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) and filed with the Securities and Exchange Commission (“SEC” or “Commission”) on July 3, 2024 (the “Proposal”).² The Proposal seeks to address the practice of listed issuers effecting reverse stock splits to regain compliance with the minimum bid price required by Exchange listing rules (the “Bid Price Requirement”). Nasdaq appropriately acknowledges that this practice can create “confusion for investors around the Company’s ability to maintain compliance with the Listing Rules and could negatively impact investor confidence in the market.”³ Accordingly, Nasdaq is proposing “to amend Rule 5810(c)(3)(A) to provide that a company will not be considered to have regained compliance with its Bid Price Requirement if the company takes an action to achieve compliance with that requirement (e.g., a reverse stock split), and that action results in the company’s security falling below the numeric threshold for another listing requirement, without regard to any compliance process otherwise available for that listing requirement.”⁴

Virtu strongly supports the Proposal and commends Nasdaq for acknowledging the serious investor protection concerns that can arise in connection with penny stocks listed on National Securities Exchanges. However, we respectfully submit that this proposed change, on its own, does not go far enough – a substantial overhaul of the Commission and Exchange rules governing penny stocks is needed to protect the retail investing public and market participants that serve them.

¹ Virtu is a leading financial firm that leverages cutting edge technology to deliver liquidity to the global markets and innovative, transparent trading solutions to its clients. Virtu operates as a market maker across numerous exchanges in the U.S. and is a member of all U.S. registered stock exchanges. Virtu’s market structure expertise, broad diversification, and execution technology enables it to provide competitive bids and offers in over 25,000 securities, at over 235 venues, in 36 countries worldwide. As such, Virtu broadly supports innovation and enhancements to transparency and fairness which enhance liquidity to the benefit of all marketplace participants.

² SEC Release No. 34-100461, File No. SR-NASDAQ-2024-029 (July 3, 2024), available at <https://www.federalregister.gov/documents/2024/07/09/2024-15038/self-regulatory-organizations-the-nasdaq-stock-market-llc-notice-of-filing-of-proposed-rule-change>.

³ *Id.*

⁴ *Id.*

On July 15, 2024, Virtu submitted a Petition for Rulemaking soliciting the Commission to undertake a series of actions to enhance the rules governing penny stocks (the “July 15 Petition”).⁵ Specifically, we petitioned the SEC to engage in rulemaking implementing the following recommendations:

- Recommendation 1: Require Exchanges to Adopt More Rigorous Initial Listing Standards to Prevent Listing of Risky Issuers
- Recommendation 2: Require Exchanges to Strengthen Continuing Listing Standards Applicable to Stocks Trading Under \$1
- Recommendation 3: Require Exchanges to Adopt Rules Limiting Excessive Reverse Stock Splits
- Recommendation 4: Require Exchanges to Monitor for Potentially Misleading and Manipulative Promotional Activity
- Recommendation 5: Mandate Additional Disclosures Under Regulation S-K to Facilitate Assessment of the Hazards of Investing in High-Risk Penny Stocks

Virtu incorporates by reference our July 15 Petition and urges Nasdaq to amend the Proposal, and/or to issue additional proposals, to implement our suggested enhancements that are within its authority as a self-regulatory organization to adopt. We believe that Main Street investors are being exposed to significant risk from issuers that have the imprimatur of being listed on an exchange when they are no different from penny stocks listed on the OTC market. It is critical that the Commission and the National Securities Exchanges, including Nasdaq, act promptly to address the significant risks that penny stocks pose to retail investors.

Respectfully submitted,



Thomas H. Merritt
Deputy General Counsel

cc: The Honorable Gary Gensler, Chair
The Honorable Hester M. Peirce, Commissioner
The Honorable Caroline A. Crenshaw, Commissioner
The Honorable Mark T. Uyeda, Commissioner
The Honorable Jaime E. Lizarraga, Commissioner
Dr. Haoxiang Zhu, Director, Division of Trading and Markets
John Zecca, Nasdaq Global Chief Legal, Risk and Regulatory Officer

⁵ Virtu Petition for Rulemaking (July 15, 2024), available at <https://www.sec.gov/files/rules/petitions/2024/petn4-830.pdf>.