

July 24, 2024

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

Re: Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Expand its Co-Location Services (SR-NASDAQ- 2024-026 (Release No. 34-100440))

Dear Ms. Countryman:

Akuna Securities LLC (“AKSEC”) on behalf of itself and its affiliates, including Akuna Capital LLC (“AKC”) appreciate the opportunity to provide comment on the above referenced rule change (the “Rule Change”) by The Nasdaq Stock Market LLC (“Nasdaq”) and its affiliate exchanges (the “Exchanges”). We write in support and recognition of the comment letter submitted by McKay Brothers LLC on this proposed rule (“McKay Letter”)¹. For the reasons detailed below and the reasons detailed by the McKay Letter, AKSEC also urge the Commission not to approve the Nasdaq Proposed Rule Changes.

Background

AKSEC is part of a global proprietary trading firm with affiliates trading from Chicago and Sydney. AKSEC is a registered broker dealer that is a proprietary options market maker and currently is a member of the Nasdaq Options Market (“NOM”), NASDAQ PHLX (“PHLX”), Nasdaq ISE (“ISE”), and Nasdaq BX Options (“BX”), as well as numerous other exchanges. AKSEC is also a consumer of telecommunication services for exchange connectivity and is acutely aware of the complexities and expense of telecommunication services and the impact on financial markets generally. Therefore, AKSEC is well positioned to understand and support the concerns raised by the McKay Letter.

¹ McKay Brothers LLC, Comment Letter on Proposed Rule to Expand NASDAQ Colocation Services, SR-NASDAQ-2024-026, (July 24, 2024).

Equalization Concerns

AKSEC is in agreement with the equalization concerns generally raised by the McKay Letter. We agree that equalization of all connections within Nasdaq's existing data center (NY-11) should occur prior to expanding to the NY11-4 colocation space. We further agree that expansion into the NY11-4 colocation space prior to equalizing NY-11 will cause increased cost to customers as a result of the uncertainty that Nasdaq is creating regarding optimal colocation position, particularly for latency sensitive customers. Nasdaq has an obligation to ensure equal access and opportunity to its customers and their current proposals simply fall short in their intended execution.

In summation, AKSEC supports the McKay Letter arguments and agrees that although we do support Nasdaq's proposed equalization of connections in NY11-4, we do believe it is critical that the equalization occurs in NY-11 to mitigate issues of inequality between the NY-11 and NY11-4 spaces.

Conclusion

For the foregoing reasons, AKSEC supports the McKay Letter, and we respectfully urge the Commission to disapprove the Nasdaq Proposed Rule Change. Should you have any questions in connection with our comments, please feel free to contact me at 312-994-4640.

Respectfully,



Desiree DeSalle-Baron
General Counsel

Cc: The Hon. Gary Gensler, Chair
The Hon. Hester M. Peirce, Commissioner
The Hon. Caroline A. Crenshaw, Commissioner
The Hon. Mark T. Uyeda, Commissioner
The Hon. Jamie Lizárraga, Commissioner

Mr. Haoxiang Zhu, Director, Division of Trading and Markets
Mr. David Saltiel, Deputy Director, Division of Trading and Markets
Ms. Andrea Orr, Deputy Director, Division of Trading and Markets
Mr. David S. Shillman, Associate Director, Division of Trading and Markets
Mr. Eric Juzenas, Associate Director, Division of Trading and Markets