

Many customers that obtain information from OPRA do not also purchase ITTO and BONO, but in cases where customers buy both products, they may shift the extent to which they purchase one or the other based on price changes. OPRA constrains the price of ITTO and BONO because no purchaser would pay an excessive price for these products when similar data is also available from OPRA. It is not necessary that products be identical in order to be reasonable substitutes for each other.

Proprietary data sold by other exchanges also constrain the price of ITTO and BONO. NYSE, BATS and CBOE, like Nasdaq, sell proprietary data for options markets. Other proprietary data products constrain the price of ITTO and BONO because no customer would pay an excessive price for these products when substitute data is available from other proprietary sources.

#### Competition Among Distributors

Distributors provide another form of price discipline for proprietary data products because they control the primary means of access to users. Distributors are in competition for users, and can simply refuse to purchase any proprietary data product that fails to provide sufficient value for the price. Nasdaq and other producers of proprietary data products must understand and respond to the needs of distributors to market such products successfully.

In summary, market forces constrain the price of depth-of-book data such as ITTO and BONO through competition for order flow, competition from similar products, and in the competition among distributors for customers. For these reasons, the Exchange has provided a substantial basis demonstrating that the fee is equitable, fair, reasonable, and not unreasonably discriminatory, and therefore consistent with and in furtherance of the purposes of the Exchange Act.

#### *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.<sup>11</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: (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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2016-167 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NASDAQ-2016-167. 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 such 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-2016-167, and should be submitted on or before January 10, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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#### **SMALL BUSINESS ADMINISTRATION**

##### **Notice of Surrender of License of Small Business Investment Company**

Pursuant to the authority granted to the United States Small Business Administration ("SBA") under Section 309 of the Small Business Investment Act of 1958, as amended, and Section 107.1900 of the Small Business Administration Rules and Regulations, SBA by this notice declares null and void the license to function as a small business investment company under the Small Business Investment Company License No. 02/02-0629 issued to DeltaPoint Capital III, LP.

United States Small Business Administration.

Dated: December 14, 2016.

**Mark L. Walsh,**

*Associate Administrator, Office of Investment and Innovation.*

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#### **SMALL BUSINESS ADMINISTRATION**

##### **Notice of Surrender of License of Small Business Investment Company**

Pursuant to the authority granted to the United States Small Business Administration ("SBA") under Section 309 of the Small Business Investment Act of 1958, as amended, and Section 107.1900 of the Small Business Administration Rules and Regulations, SBA by this notice declares null and void the license to function as a small business investment company under the Small Business Investment Company License No. 02/02-0662 issued to DeltaPoint Capital IV, LP.

United States Small Business Administration.

Dated: December 14, 2016.

**Mark L. Walsh,**

*Associate Administrator, Office of Investment and Innovation.*

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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