

Required fields are shown with yellow backgrounds and asterisks.

Filing by NASDAQ Stock Market
 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 *).

Proposal to amend Rule 4703 (Order Attributes) to specify the behavior of locked or crossed Orders during the Nasdaq Opening or Closing Cross. Nasdaq also proposes to make a corresponding change to Rule 4753, which governs the Halt Cross.

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 * Andrew Last Name * Madar
 Title * Senior Associate General Counsel
 E-mail * Andrew.Madar@nasdaq.com
 Telephone * (301) 978-8420 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 03/08/2017 Executive Vice President and General Counsel
 By Edward S. Knight

(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 *

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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 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) The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend Rule 4703 (Order Attributes) to specify the behavior of locked or crossed Orders during the Nasdaq Opening or Closing Cross. Nasdaq also proposes to make a corresponding change to Rule 4753, which governs the Halt Cross.

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).³

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of The NASDAQ Stock Market (the “Board”) on August 15, 2016. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

Andrew Madar
Senior Associate General Counsel
Nasdaq, Inc.
301-978-8420

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

a. Purpose

Nasdaq proposes to amend Rule 4703 (Order Attributes) to specify the behavior of locked or crossed Orders during the Nasdaq Opening or Closing Cross in light of recent changes to its Post-Only Order functionality. Nasdaq also proposes to make a corresponding change to Rule 4753, which governs the Halt Cross.

Rule 4703(l) describes the application of the Nasdaq Opening and Closing Cross to Nasdaq Order Types. Rule 4703(l) states that all Order Types, except Supplemental Orders, Retail Orders, and RPI Orders participate in the Nasdaq Opening Cross and/or the Nasdaq Closing Cross if the Order has a Time-in-Force that would cause the Order to be in effect at the time of the Nasdaq Opening Cross and/or Nasdaq Closing Cross. Market on Open ("MOO") Orders, Limit On Open ("LOO") Orders, and IOI Orders participate in the Nasdaq Opening Cross in the manner specified in Rule 4752 (Opening Process). Other Order Types eligible to participate in the Nasdaq Opening Cross operate as "Market Hours Orders" or "Open Eligible Interest" as specified in Rule 4752. MOC Orders, LOC Orders and IO Orders participate in the Nasdaq Closing Cross in the manner specified in Rule 4754 (Nasdaq Closing Cross). Other Order Types eligible to participate in the Nasdaq Closing Cross operate as "Close Eligible Interest" in the manner specified in Rule 4754.

Nasdaq proposes to add language to Rule 4703(l) to specify the treatment of Orders that are locked or crossed during the Opening or Closing Cross. Specifically, for

purposes of selecting the Nasdaq Opening Cross or Closing Cross price, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book shall be deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order. This functionality will impact Non-Displayed Orders, Post-Only Orders, Price to Comply Orders and Midpoint Peg Post-Only Orders when the non-displayed price of that Order is locked or crossed by a Post-Only Order.⁴ Thus, a Non-Displayed Order to buy that is locked by a Post-Only Order to sell at \$11.03 would be deemed to have a price of \$11.02 for purposes of selecting the Cross price. Nasdaq is proposing to re-price the non-displayed price of an Order that is locked or crossed, rather than the Post-Only Order, because re-pricing a non-displayed Order will produce less market impact than re-pricing an order that is already displayed.

The same functionality will apply to Orders that are locked or crossed during the Nasdaq Halt Cross.⁵ Accordingly, Nasdaq proposes to add Rule 4753(d), which states that, for purposes of selecting the Nasdaq Halt Cross price, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book prior to the trading halt shall be deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order.

⁴ In this scenario, the Post-Only Order would have locked or crossed the Non-Displayed Order, Post-Only Order, Price to Comply Order, or Midpoint Peg Post-Only Order at its non-displayed price upon entry if the value of price improvement associated with executing against the Order is not met.

⁵ The Halt Cross is defined as the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest. See Rule 4753(a)(4).

The proposed change supplements the recently-approved changes to the Post-Only Order and the resulting modifications to Nasdaq systems.⁶ The change also reflects the intent of the Nasdaq Opening and Closing Cross functionality, which currently prices buy (sell) Opening Imbalance Only (“OIO”) Orders and Imbalance Only (“IO”) Orders to the highest bid (lowest offer) on the Nasdaq Book (but not beyond the Order’s stated

⁶ See Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-NASDAQ-2016-111).

Nasdaq initially proposed to implement the new Post-Only functionality on November 21, 2016. See Equity Trader Alert #2016-291. However, following testing, Nasdaq has decided to delay the implementation of this new functionality to provide additional time for systems testing. The new functionality shall be implemented no later than March 31, 2017. See Securities Exchange Act Release No. 80045 (February 15, 2017), 82 FR 11389 (February 22, 2017) (SR-NASDAQ-2017-013).

Under the new Post-Only functionality, the behavior of Post-Only orders would be altered when the adjusted price of such orders lock or cross a non-displayed price on the Exchange’s Book. Specifically, if the adjusted price of the Post-Only Order would lock or cross a non-displayed price on the Exchange’s Book, the Post-Only order would be posted in the same manner as a Price to Comply Order. However, the Post-Only Order would execute if (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Nasdaq Book (as measured against the original limit price of the Order) equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Nasdaq Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Nasdaq Book (as measured against the original limit price of the Order) equals or exceeds \$0.01 per share.

Additionally, if the Post-Only Order would not lock or cross a Protected Quotation but would lock or cross a Non-Displayed Order on the Exchange’s Book, the Post-Only Order would be posted, ranked, and displayed at its limit price. The Post-Only Order would execute if (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Nasdaq Book equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Nasdaq Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Nasdaq Book equals or exceeds \$0.01 per share.

limit price), and prevents buy and sell OIO and IO Orders from being priced at the same price and executing against each other.

The change is also similar to the treatment of Post-Only Orders with Midpoint Pegging during the Opening Cross, Closing Cross and Halt Cross.⁷ Rule 4702(b)(5)(A) provides that, for purposes of any cross in which a Midpoint Peg Post-Only Order participates, a Midpoint Peg Post-Only Order to buy (sell) that is locking a preexisting Order shall be deemed to have a price equal to the price of the highest sell Order (lowest buy Order) that would be eligible to execute against the Midpoint Peg Post-Only Order in such circumstances. Thus, a Midpoint Peg Post-Only Order to buy that locked a preexisting Non-Displayed Order to sell at \$11.03 would be deemed to have a price of \$11.02. With this change, Nasdaq will be adopting a similar functionality for an Order that is locked or crossed at its non-displayed price by a Post-Only Order for purposes of the Opening Cross, Closing Cross, and Halt Cross.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national

⁷ Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer (the “Midpoint”). Thus, if the Inside Bid was \$11 and the Inside Offer was \$11.06, an Order with Midpoint Pegging would be priced at \$11.03. An Order with Midpoint Pegging is not displayed. An Order with Midpoint Pegging may be executed in sub-pennies if necessary to obtain a midpoint price. See Rule 4703(d).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

market system, and, in general to protect investors and the public interest. The proposed change is consistent with the Act because it reflects the intent of the Nasdaq Opening and Closing Cross functionality, which currently prices buy (sell) OIO Orders and IO Orders to the highest bid (lowest offer) on the Nasdaq Book (but not beyond the Order's stated limit price), and prevents buy and sell OIO and IO Orders from being priced at the same price and executing against each other. The proposed change also adopts a re-pricing functionality that is similar to a re-pricing functionality that is currently in effect for Midpoint Peg Post-Only Orders during the Opening Cross, Closing Cross and Halt Cross. Finally, the proposed change supplements the recently-approved changes to the Post-Only Order and the resulting modifications to Nasdaq systems.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change adopts a re-pricing functionality that is similar to a re-pricing functionality that is currently in effect for Midpoint Peg Post-Only Orders during the Opening Cross, Closing Cross and Halt Cross. Moreover, the use of Exchange Order types and attributes is voluntary, and no member is required to use any specific Order type or attribute or even to use any Exchange Order type or attribute or any Exchange functionality at all. If an Exchange member believes for any reason that the proposed rule change will be detrimental, that perceived detriment can be avoided by choosing not to enter or interact with the Order types modified by this proposed rule change. Finally, the proposal will apply equally to all Orders that meet its criteria.

5. 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.

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)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)¹⁰ of the Act and Rule 19b-4(f)(6) thereunder¹¹ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange believes that this proposal does not significantly affect the protection of investors or the public interest, and does not impose any significant burden on competition, because it adopts a re-pricing functionality that reflects the intent of the Nasdaq Opening and Closing Cross functionality, and is similar to a functionality that is currently in effect for Midpoint Peg Post-Only Orders during the Opening Cross, Closing Cross and Halt Cross. The proposal also supplements the recently-approved changes to the Post-Only Order and the resulting modifications to Nasdaq systems.

Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6).

subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii).

As noted above, the proposal supplements the recently-approved changes to the Post-Only Order and the resulting modifications to Nasdaq systems. Nasdaq believes that the Post-Only Order provides several benefits to investors and members, including tightening bid/offer spreads, thereby enhancing execution quality on the Exchange, and facilitating the more efficient execution of liquidity-providing strategies.¹² Nasdaq has submitted a proposed rule change to the SEC stating that it intends to implement the new

¹² See Securities Exchange Act Release No. 78908 (September 22, 2016), 81 FR 66702 (September 28, 2016) (SR-NASDAQ-2016-111); see also Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (order approving SR-NASDAQ-2016-111).

Post-Only Order functionality no later than March 31, 2017.¹³ Given that this filing is an outgrowth of the Post-Only Order proposal, and given that Nasdaq intends to implement the changes to the Post-Only Order type shortly, Nasdaq requests that the Commission waive the 30-day operative delay so that this proposal will be operative on the same date as the changes to the Post-Only Order, and its attendant benefits to investors, are implemented.

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

Not applicable.

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

1. Notice of Proposed Rule Change for publication in the Federal Register.
5. Text of the proposed rule change.

¹³ See Securities Exchange Act Release No. 80045 (February 15, 2017), 82 FR 11389 (February 22, 2017) (SR-NASDAQ-2017-013).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2017-028)

March __, 2017

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 4703 and Rule 4753

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 8, 2017, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) 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 the Exchange. 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

The Exchange proposes to amend Rule 4703 (Order Attributes) to specify the behavior of locked or crossed Orders during the Nasdaq Opening or Closing Cross. Nasdaq also proposes to make a corresponding change to Rule 4753, which governs the Halt Cross.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

In its filing with the Commission, the Exchange 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. The Exchange 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

Nasdaq proposes to amend Rule 4703 (Order Attributes) to specify the behavior of locked or crossed Orders during the Nasdaq Opening or Closing Cross in light of recent changes to its Post-Only Order functionality. Nasdaq also proposes to make a corresponding change to Rule 4753, which governs the Halt Cross.

Rule 4703(1) describes the application of the Nasdaq Opening and Closing Cross to Nasdaq Order Types. Rule 4703(1) states that all Order Types, except Supplemental Orders, Retail Orders, and RPI Orders participate in the Nasdaq Opening Cross and/or the Nasdaq Closing Cross if the Order has a Time-in-Force that would cause the Order to be in effect at the time of the Nasdaq Opening Cross and/or Nasdaq Closing Cross. Market on Open ("MOO") Orders, Limit On Open ("LOO") Orders, and IOI Orders participate in the Nasdaq Opening Cross in the manner specified in Rule 4752 (Opening Process). Other Order Types eligible to participate in the Nasdaq Opening Cross operate as "Market Hours Orders" or "Open Eligible Interest" as specified in Rule 4752. MOC Orders, LOC Orders and IO Orders participate in the Nasdaq Closing Cross in the manner specified in Rule 4754 (Nasdaq Closing Cross). Other Order Types eligible to

participate in the Nasdaq Closing Cross operate as “Close Eligible Interest” in the manner specified in Rule 4754.

Nasdaq proposes to add language to Rule 4703(1) to specify the treatment of Orders that are locked or crossed during the Opening or Closing Cross. Specifically, for purposes of selecting the Nasdaq Opening Cross or Closing Cross price, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book shall be deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order. This functionality will impact Non-Displayed Orders, Post-Only Orders, Price to Comply Orders and Midpoint Peg Post-Only Orders when the non-displayed price of that Order is locked or crossed by a Post-Only Order.³ Thus, a Non-Displayed Order to buy that is locked by a Post-Only Order to sell at \$11.03 would be deemed to have a price of \$11.02 for purposes of selecting the Cross price. Nasdaq is proposing to re-price the non-displayed price of an Order that is locked or crossed, rather than the Post-Only Order, because re-pricing a non-displayed Order will produce less market impact than re-pricing an order that is already displayed.

The same functionality will apply to Orders that are locked or crossed during the Nasdaq Halt Cross.⁴ Accordingly, Nasdaq proposes to add Rule 4753(d), which states that, for purposes of selecting the Nasdaq Halt Cross price, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book

³ In this scenario, the Post-Only Order would have locked or crossed the Non-Displayed Order, Post-Only Order, Price to Comply Order, or Midpoint Peg Post-Only Order at its non-displayed price upon entry if the value of price improvement associated with executing against the Order is not met.

⁴ The Halt Cross is defined as the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest. See Rule 4753(a)(4).

prior to the trading halt shall be deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order.

The proposed change supplements the recently-approved changes to the Post-Only Order and the resulting modifications to Nasdaq systems.⁵ The change also reflects the intent of the Nasdaq Opening and Closing Cross functionality, which currently prices buy (sell) Opening Imbalance Only (“OIO”) Orders and Imbalance Only (“IO”) Orders to

⁵ See Securities Exchange Act Release No. 79290 (November 10, 2016), 81 FR 81184 (November 17, 2016) (SR-NASDAQ-2016-111).

Nasdaq initially proposed to implement the new Post-Only functionality on November 21, 2016. See Equity Trader Alert #2016-291. However, following testing, Nasdaq has decided to delay the implementation of this new functionality to provide additional time for systems testing. The new functionality shall be implemented no later than March 31, 2017. See Securities Exchange Act Release No. 80045 (February 15, 2017), 82 FR 11389 (February 22, 2017) (SR-NASDAQ-2017-013).

Under the new Post-Only functionality, the behavior of Post-Only orders would be altered when the adjusted price of such orders lock or cross a non-displayed price on the Exchange’s Book. Specifically, if the adjusted price of the Post-Only Order would lock or cross a non-displayed price on the Exchange’s Book, the Post-Only order would be posted in the same manner as a Price to Comply Order. However, the Post-Only Order would execute if (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Nasdaq Book (as measured against the original limit price of the Order) equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Nasdaq Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Nasdaq Book (as measured against the original limit price of the Order) equals or exceeds \$0.01 per share.

Additionally, if the Post-Only Order would not lock or cross a Protected Quotation but would lock or cross a Non-Displayed Order on the Exchange’s Book, the Post-Only Order would be posted, ranked, and displayed at its limit price. The Post-Only Order would execute if (i) it is priced below \$1.00 and the value of price improvement associated with executing against an Order on the Nasdaq Book equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the Order posted to the Nasdaq Book and subsequently provided liquidity, or (ii) it is priced at \$1.00 or more and the value of price improvement associated with executing against an Order on the Nasdaq Book equals or exceeds \$0.01 per share.

the highest bid (lowest offer) on the Nasdaq Book (but not beyond the Order's stated limit price), and prevents buy and sell OIO and IO Orders from being priced at the same price and executing against each other.

The change is also similar to the treatment of Post-Only Orders with Midpoint Pegging during the Opening Cross, Closing Cross and Halt Cross.⁶ Rule 4702(b)(5)(A) provides that, for purposes of any cross in which a Midpoint Peg Post-Only Order participates, a Midpoint Peg Post-Only Order to buy (sell) that is locking a preexisting Order shall be deemed to have a price equal to the price of the highest sell Order (lowest buy Order) that would be eligible to execute against the Midpoint Peg Post-Only Order in such circumstances. Thus, a Midpoint Peg Post-Only Order to buy that locked a preexisting Non-Displayed Order to sell at \$11.03 would be deemed to have a price of \$11.02. With this change, Nasdaq will be adopting a similar functionality for an Order that is locked or crossed at its non-displayed price by a Post-Only Order for purposes of the Opening Cross, Closing Cross, and Halt Cross.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, in that it is designed to promote just and equitable principles of trade, to remove

⁶ Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer (the "Midpoint"). Thus, if the Inside Bid was \$11 and the Inside Offer was \$11.06, an Order with Midpoint Pegging would be priced at \$11.03. An Order with Midpoint Pegging is not displayed. An Order with Midpoint Pegging may be executed in sub-pennies if necessary to obtain a midpoint price. See Rule 4703(d).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

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. The proposed change is consistent with the Act because it reflects the intent of the Nasdaq Opening and Closing Cross functionality, which currently prices buy (sell) OIO Orders and IO Orders to the highest bid (lowest offer) on the Nasdaq Book (but not beyond the Order's stated limit price), and prevents buy and sell OIO and IO Orders from being priced at the same price and executing against each other. The proposed change also adopts a re-pricing functionality that is similar to a re-pricing functionality that is currently in effect for Midpoint Peg Post-Only Orders during the Opening Cross, Closing Cross and Halt Cross. Finally, the proposed change supplements the recently-approved changes to the Post-Only Order and the resulting modifications to Nasdaq systems.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change adopts a re-pricing functionality that is similar to a re-pricing functionality that is currently in effect for Midpoint Peg Post-Only Orders during the Opening Cross, Closing Cross and Halt Cross. Moreover, the use of Exchange Order types and attributes is voluntary, and no member is required to use any specific Order type or attribute or even to use any Exchange Order type or attribute or any Exchange functionality at all. If an Exchange member believes for any reason that the proposed rule change will be detrimental, that perceived detriment can be avoided by choosing not to enter or interact with the Order types modified by this proposed rule change. Finally, the proposal will apply equally to all Orders that meet its criteria.

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

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)(iii) of the Act⁹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁰

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.

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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. Please include File Number SR-NASDAQ-2017-028 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-2017-028. 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 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 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; 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-2017-028 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.¹¹

Robert W. Errett
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

The NASDAQ Stock Market Rules

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4703. Order Attributes

As described in Rule 4702, the following Order Attributes may be assigned to those Order Types for which they are available.

(a) through (k) No Change.

(l) Participation in the Nasdaq Opening Cross or the Nasdaq Closing Cross. All Order Types except Supplemental Orders, Retail Orders, and RPI Orders participate in the Nasdaq Opening Cross and/or the Nasdaq Closing Cross if the Order has a Time-in-Force that would cause the Order to be in effect at the time of the Nasdaq Opening Cross and/or Nasdaq Closing Cross. MOO Orders, LOO Orders, and IOI Orders participate in the Nasdaq Opening Cross in the manner specified in Rule 4752. Other Order Types eligible to participate in the Nasdaq Opening Cross operate as “Market Hours Orders” or “Open Eligible Interest” as specified in Rule 4752. MOC Orders, LOC Orders and IO Orders participate in the Nasdaq Closing Cross in the manner specified in Rule 4754. Other Order Types eligible to participate in the Nasdaq Closing Cross operate as “Close Eligible Interest” in the manner specified in Rule 4754. For purposes of selecting the Nasdaq Opening Cross or Closing Cross price, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book shall be deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order.

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4753. Nasdaq Halt Cross

(a) through (c) No Change.

(d) For purposes of selecting the Nasdaq Halt Cross price, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book prior to the trading halt shall be deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order.

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