

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 25	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2017 - * 107 Amendment No. (req. for Amendments *)
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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"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
Date Expires * <input type="text"/>			<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 checked="" type="checkbox"/>	Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>
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**Description**

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

Proposed rule change to amend Nasdaq Closing Cross rules to (1) reject all Market Maker Peg Orders flagged to participate in the Nasdaq Closing Cross; and (2) account for the minimum increment for Tick Size Pilot securities

**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 \* Adrian Last Name \* Griffiths  
 Title \* Senior Associate General Counsel  
 E-mail \* Adrian.Griffiths@nasdaq.com  
 Telephone \* (212) 231-5176 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 \*)  
 Executive Vice President and General Counsel

Date 10/09/2017  
 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 \***

Add Remove View

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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend Nasdaq Closing Cross rules to: (1) reject all Market Maker Peg Orders flagged to participate in the Nasdaq Closing Cross; and (2) account for the minimum increment for Tick Size Pilot securities when re-pricing LOC Orders entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET.

The Exchange requests that the Commission waive the five-day notice requirement and the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).<sup>3</sup>

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 Exchange (the “Board”) on September 19, 2017. 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:

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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)(iii).

Adrian Griffiths  
Senior Associate General Counsel  
Nasdaq, Inc.  
212-231-5176

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

a. Purpose

On July 13, 2017, the Exchange filed a proposed rule change to amend Rule 4702 (Order Types) and Rule 4754 (Nasdaq Closing Cross) to enhance the Nasdaq Closing Cross by permitting members to submit Limit On Close ("LOC") Orders<sup>4</sup> until immediately prior to 3:55 p.m. ET subject to certain conditions.<sup>5</sup> This proposed rule change was approved by the Commission on September 8, 2017,<sup>6</sup> and the Exchange began to introduce this functionality pursuant to a symbol-by-symbol rollout beginning on October 2, 2017.<sup>7</sup> The purpose of the proposed rule change is to amend the Nasdaq Closing Cross rules to: (1) reject all Market Maker Peg Orders flagged to participate in the Nasdaq Closing Cross; and (2) account for the minimum increment for Tick Size Pilot securities when re-pricing LOC Orders entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET.

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<sup>4</sup> A "Limit On Close Order" or "LOC Order" is an Order Type entered with a price that may be executed only in the Nasdaq Closing Cross, and only if the price determined by the Nasdaq Closing Cross is equal to or better than the price at which the LOC Order was entered. See Rule 4702(b)(12).

<sup>5</sup> See Securities Exchange Act Release No. 81188 (July 21, 2017), 82 FR 35014 (July 27, 2017) (SR-NASDAQ-2017-061).

<sup>6</sup> See Securities Exchange Act Release No. 81556 (September 8, 2017), 82 FR 43264 (September 14, 2017) (SR-NASDAQ-2017-061) (Approval Order).

<sup>7</sup> See Equity Trader Alert # 2017-184.

A “Market Maker Peg Order” is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule 4613(a)(2).<sup>8</sup> Pursuant to SR-NASDAQ-2017-061, a Market Maker Peg Order will not be permitted to operate as a Closing Cross/Extend Hours Order.<sup>9</sup> Instead, such orders will be rejected. Market Maker Peg Orders would, however, remain permitted to be flagged to participate solely in the Nasdaq Closing Cross if entered with a time-in-force (“TIF”) that does not continue after the time of the Nasdaq Closing Cross. After additional consideration, the Exchange believes that all Market Maker Peg Orders flagged with an on-close instruction should be rejected. The Exchange therefore proposes to amend its rules to state that a Market Maker Peg Order may not be flagged to solely participate in the Nasdaq Closing Cross. This will supplement current language stating that such Market maker Peg Orders may not operate as Closing Cross/Extended Hours Orders. With this change, all Market Maker Peg Orders entered with an on-close instruction will be rejected, regardless of whether the order is entered with a TIF that continues after the Nasdaq Closing Cross. The Exchange believes that this change will more closely align with member expectations and the design of this order type, which is to assist members with their quoting obligations. Market Maker Peg Orders that are not entered with an on-close instruction will remain eligible to participate in the Nasdaq Closing Cross if the order remains unexecuted at the time of the Nasdaq Closing Cross.

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<sup>8</sup> See Rule 4702(b)(7).

<sup>9</sup> A Closing Cross/Extended Hours Order is an order that is flagged to participate in the Nasdaq Closing Cross and has a Time-in-Force that continues after the time of the Nasdaq Closing Cross.

Furthermore, when the Nasdaq Closing Cross changes are introduced, the Exchange will re-price LOC Orders entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET to the less aggressive of the order's limit price or the First Reference Price<sup>10</sup> in order to prevent these orders from having a significant impact on the price established by the Nasdaq Closing Cross.<sup>11</sup> In addition, Rule 4702 provides that if the First Reference Price is not at a permissible minimum increment of \$0.01 or \$0.0001, as applicable, the First Reference Price will be rounded (i) to the nearest permitted minimum increment (with midpoint prices being rounded up) if there is no imbalance, (ii) up if there is a buy imbalance, or (iii) down if there is a sell imbalance. Although the rule explicitly mentions the regular trading increments of \$0.01 or \$0.0001, however, it does not account for the minimum increments approved for securities selected for inclusion in the Tick Size Pilot Program, which are subject to \$0.05 minimum increments.<sup>12</sup> The Exchange therefore proposes to remove the explicit reference to these specific minimum increments. With the proposed change, the rule will state that if the First Reference Price is not at a permissible minimum increment, the First Reference Price will be rounded (i) to the nearest permitted minimum increment (with midpoint prices being rounded up) if there is no imbalance, (ii) up if there is a buy imbalance, or (iii) down if there is a sell imbalance. The Exchange believes that this change will avoid potential member confusion with respect to the

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<sup>10</sup> "First Reference Price" is the Current Reference Price in the first Order Imbalance Indicator disseminated at or after 3:50 p.m. ET. See Rule 4754(a)(9).

<sup>11</sup> See Rule 4702(b)(12)(A).

<sup>12</sup> See Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (Order Approving the Tick Size Pilot Program). See also Rule 4770 (Compliance with Regulation NMS Plan to Implement a Tick Size Pilot).

application of this rule to securities selected for inclusion in the Tick Size Pilot Program, and help ensure compliance with the Tick Size Pilot Program.

### Implementation

The Exchange proposes to introduce the changes described in this proposed rule change on October 10, 2017. The Exchange began the rollout of functionality described in SR-NASDAQ-2017-061, as announced to members via Equity Trader Alert, with three symbols, VSAT, TEAM, and UNIT. The rollout of those changes will continue in the fourth quarter of 2017 after the completion of additional industry testing of the functionality.<sup>13</sup> The Exchange believes that implementing the proposed change to Market Maker Peg Order handling is important for the operation of the three symbols to which the functionality proposed in SR-NASDAQ-2017-061 currently applies. The changes to Market Maker Peg Order handling proposed herein cannot be applied on a symbol-by-symbol basis, but rather must be applied to all symbols simultaneously. Accordingly, the Exchange is proposing to implement the proposed changes applied to all symbols on October 10, 2017.

### b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>15</sup> in particular,

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<sup>13</sup> The Exchange recently informed market participants that it will pause the rollout of the remaining symbols for the enhancements to the Nasdaq Closing Cross approved by the Commission on September 8, 2017, in an effort to provide further customer testing opportunities. See Nasdaq Equity Trader Alert # 2017-189. The Exchange anticipates continuing the implementation in the near future, with its completion in the fourth quarter consistent with its proposal. The Exchange will release an Equity Trader Alert announcing resumption of the rollout schedule.

<sup>14</sup> 15 U.S.C. 78f(b).

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 market system, and, in general to protect investors and the public interest.

When the Exchange filed to restrict Market Maker Peg Orders from operating as Closing Cross/Extended Hours Orders, the Exchange explained that Market Maker Peg Orders were designed to assist members in meeting their quoting obligations and not as a means of submitting interest flagged with an on-close instruction. Furthermore, the Exchange explained that it did not believe that members want functionality that allows Market Maker Peg Orders to be entered with a flag designating an on-close instruction. The Exchange believes that this is true both for Market Maker Peg Orders entered with a TIF that continues after the time of the Nasdaq Closing Cross, and that therefore operate as Closing Cross/Extended Hours Orders, and Market Maker Peg Orders entered with a TIF that causes it to execute solely in the Nasdaq Closing Cross. The Exchange is therefore proposing to reject all Market Maker Peg Orders flagged to participate in the Nasdaq Closing Cross, regardless of TIF. The Exchange believes that this change will perfect the mechanism of a free and open market by eliminating the possibility that members can inadvertently enter this order type combination, while preserving the design of Market Maker Peg Orders to aid members in meeting their quoting obligations.

In addition, the Exchange believes that the current language in Rule 4702 could be confusing to members and investors when applied to securities that are selected for inclusion in the Tick Size Pilot Program, as these securities are subject to a \$0.05 minimum increment instead of the \$0.01 or \$0.0001 minimum increments cited in the

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<sup>15</sup>

15 U.S.C. 78f(b)(5).

rule today. The Exchange believes that removing the reference to these specific increments will reduce confusion because permissible minimum increments may be \$0.01 or \$0.0001 for most securities, and \$0.05 for a handful of securities selected for inclusion in the Tick Size Pilot Program. The Exchange must round to a permissible minimum increment whenever the First Reference Price is not in such a minimum increment. The proposed rule change makes this clear and will therefore increase transparency to the benefit of members and investors, and help ensure compliance with the Tick Size Pilot Program.

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. With respect to Market Maker Peg Orders flagged for the Nasdaq Closing Cross, the proposed change eliminates an order type combination that is not consistent with the purpose of aiding members in meeting their quoting obligations. Furthermore, the proposed change related to minimum increments properly reflects the increments applicable to securities traded on the Exchange, including securities selected for inclusion in the Tick Size Pilot Program. Neither of these proposed changes is designed to have any significant competitive impact.

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)<sup>16</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>17</sup> 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 the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition as it merely eliminates a rarely used order type combination that is not valuable to members, and updates the Exchange's rule to adequately account for minimum increments for securities selected for inclusion in the Tick Size Pilot Program. With respect to Market Maker Peg Orders, the Exchange believes that the changes will more closely align the accepted parameters for this order type with its purpose, which is to aid members in complying with their quoting obligations. Furthermore, the proposed changes related to minimum increments are designed to reduce confusion around how the Exchange will handle re-pricing of such securities when the First Reference Price is not in a permissible minimum increment. Neither of these proposed changes raises any novel regulatory issues, and the Exchange believes that the proposed rule change qualifies for immediate effectiveness as a "non-controversial" rule change.

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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

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 subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange requests that the Commission waive the five-day pre-filing requirement, as set forth in Rule 19b-4(f)(6) because this rule change proposes materially identical changes as was proposed in SR-NASDAQ-2017-102, which was filed with the Commission on October 2, 2017<sup>18</sup> and which is being withdrawn by the Exchange concurrently with the filing of this proposal. The Exchange is withdrawing SR-NASDAQ-2017-102 and submitting this filing in its stead to alter the date on which the proposed changes will be effective and to alter the description of how the changes will be implemented. In SR-NASDAQ-2017-102, the Exchange proposed to implement the changes on October 9, 2017, applying them coincident with the symbol-by-symbol application of the changes proposed in SR-NASDAQ-2017-061. As proposed herein, the Exchange will apply the changes to all symbols on October 10, 2017.

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

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<sup>18</sup> Available at: <http://nasdaq.cchwallstreet.com/NASDAQ/pdf/nasdaq-filings/2017/SR-NASDAQ-2017-102.pdf>.

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) so that the Exchange can make these changes immediately apply to all symbols, including the three that the functionality described in SR-NASDAQ-2017-061 currently applies. As the Exchange noted above, it must apply the functionality to all symbols simultaneously. The Exchange believes that it is in the best interest of its members to introduce the proposed changes related to Market Maker Peg Orders immediately so that it will apply to three symbols to which the similar changes described in SR-NASDAQ-2017-061. The proposed changes will benefit market participants using Market Maker Peg Orders in any symbol because it will eliminate the possibility that members can inadvertently enter this order type combination, while preserving the design of Market Maker Peg Orders to aid members in meeting their quoting obligations. Furthermore, the proposed changes related to minimum increments is a rule correction that would be beneficial to members with the implementation date of those changes.

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.

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-NASDAQ-2017-107)

October \_\_, 2017

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Nasdaq Closing Cross Rules

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 October 9, 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 4702 (Order Types) and Rule 4754 (Nasdaq Closing Cross) to enhance the Nasdaq Closing Cross by permitting members to submit LOC Orders until immediately prior to 3:55 p.m. ET subject to certain conditions, and to make other changes related to Closing Cross/Extended Hours Orders.

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.

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

<sup>2</sup> 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

On July 13, 2017, the Exchange filed a proposed rule change to amend Rule 4702 (Order Types) and Rule 4754 (Nasdaq Closing Cross) to enhance the Nasdaq Closing Cross by permitting members to submit Limit On Close ("LOC") Orders<sup>3</sup> until immediately prior to 3:55 p.m. ET subject to certain conditions.<sup>4</sup> This proposed rule change was approved by the Commission on September 8, 2017,<sup>5</sup> and the Exchange began to introduce this functionality pursuant to a symbol-by-symbol rollout beginning on October 2, 2017.<sup>6</sup> The purpose of the proposed rule change is to amend the Nasdaq Closing Cross rules to: (1) reject all Market Maker Peg Orders flagged to participate in

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<sup>3</sup> A "Limit On Close Order" or "LOC Order" is an Order Type entered with a price that may be executed only in the Nasdaq Closing Cross, and only if the price determined by the Nasdaq Closing Cross is equal to or better than the price at which the LOC Order was entered. See Rule 4702(b)(12).

<sup>4</sup> See Securities Exchange Act Release No. 81188 (July 21, 2017), 82 FR 35014 (July 27, 2017) (SR-NASDAQ-2017-061).

<sup>5</sup> See Securities Exchange Act Release No. 81556 (September 8, 2017), 82 FR 43264 (September 14, 2017) (SR-NASDAQ-2017-061) (Approval Order).

<sup>6</sup> See Equity Trader Alert # 2017-184.

the Nasdaq Closing Cross; and (2) account for the minimum increment for Tick Size Pilot securities when re-pricing LOC Orders entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET.

A “Market Maker Peg Order” is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule 4613(a)(2).<sup>7</sup> Pursuant to SR-NASDAQ-2017-061, a Market Maker Peg Order will not be permitted to operate as a Closing Cross/Extend Hours Order.<sup>8</sup> Instead, such orders will be rejected. Market Maker Peg Orders would, however, remain permitted to be flagged to participate solely in the Nasdaq Closing Cross if entered with a time-in-force (“TIF”) that does not continue after the time of the Nasdaq Closing Cross. After additional consideration, the Exchange believes that all Market Maker Peg Orders flagged with an on-close instruction should be rejected. The Exchange therefore proposes to amend its rules to state that a Market Maker Peg Order may not be flagged to solely participate in the Nasdaq Closing Cross. This will supplement current language stating that such Market maker Peg Orders may not operate as Closing Cross/Extended Hours Orders. With this change, all Market Maker Peg Orders entered with an on-close instruction will be rejected, regardless of whether the order is entered with a TIF that continues after the Nasdaq Closing Cross. The Exchange believes that this change will more closely align with member expectations and the design of this order type, which is to assist members with their quoting obligations. Market Maker Peg

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<sup>7</sup> See Rule 4702(b)(7).

<sup>8</sup> A Closing Cross/Extended Hours Order is an order that is flagged to participate in the Nasdaq Closing Cross and has a Time-in-Force that continues after the time of the Nasdaq Closing Cross.

Orders that are not entered with an on-close instruction will remain eligible to participate in the Nasdaq Closing Cross if the order remains unexecuted at the time of the Nasdaq Closing Cross.

Furthermore, when the Nasdaq Closing Cross changes are introduced, the Exchange will re-price LOC Orders entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET to the less aggressive of the order's limit price or the First Reference Price<sup>9</sup> in order to prevent these orders from having a significant impact on the price established by the Nasdaq Closing Cross.<sup>10</sup> In addition, Rule 4702 provides that if the First Reference Price is not at a permissible minimum increment of \$0.01 or \$0.0001, as applicable, the First Reference Price will be rounded (i) to the nearest permitted minimum increment (with midpoint prices being rounded up) if there is no imbalance, (ii) up if there is a buy imbalance, or (iii) down if there is a sell imbalance. Although the rule explicitly mentions the regular trading increments of \$0.01 or \$0.0001, however, it does not account for the minimum increments approved for securities selected for inclusion in the Tick Size Pilot Program, which are subject to \$0.05 minimum increments.<sup>11</sup> The Exchange therefore proposes to remove the explicit reference to these specific minimum increments. With the proposed change, the rule will state that if the First Reference Price is not at a permissible minimum increment, the First Reference Price will be rounded (i) to the nearest permitted minimum increment (with midpoint prices being rounded up) if there is no imbalance, (ii)

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<sup>9</sup> "First Reference Price" is the Current Reference Price in the first Order Imbalance Indicator disseminated at or after 3:50 p.m. ET. See Rule 4754(a)(9).

<sup>10</sup> See Rule 4702(b)(12)(A).

<sup>11</sup> See Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (Order Approving the Tick Size Pilot Program). See also Rule 4770 (Compliance with Regulation NMS Plan to Implement a Tick Size Pilot).

up if there is a buy imbalance, or (iii) down if there is a sell imbalance. The Exchange believes that this change will avoid potential member confusion with respect to the application of this rule to securities selected for inclusion in the Tick Size Pilot Program, and help ensure compliance with the Tick Size Pilot Program.

#### Implementation

The Exchange proposes to introduce the changes described in this proposed rule change on October 10, 2017. The Exchange began the rollout of functionality described in SR-NASDAQ-2017-061, as announced to members via Equity Trader Alert, with three symbols, VSAT, TEAM, and UNIT. The rollout of those changes will continue in the fourth quarter of 2017 after the completion of additional industry testing of the functionality.<sup>12</sup> The Exchange believes that implementing the proposed change to Market Maker Peg Order handling is important for the operation of the three symbols to which the functionality proposed in SR-NASDAQ-2017-061 currently applies. The changes to Market Maker Peg Order handling proposed herein cannot be applied on a symbol-by-symbol basis, but rather must be applied to all symbols simultaneously. Accordingly, the Exchange is proposing to implement the proposed changes applied to all symbols on October 10, 2017.

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<sup>12</sup> The Exchange recently informed market participants that it will pause the rollout of the remaining symbols for the enhancements to the Nasdaq Closing Cross approved by the Commission on September 8, 2017, in an effort to provide further customer testing opportunities. See Nasdaq Equity Trader Alert # 2017-189. The Exchange anticipates continuing the implementation in the near future, with its completion in the fourth quarter consistent with its proposal. The Exchange will release an Equity Trader Alert announcing resumption of the rollout schedule.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>14</sup> 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 market system, and, in general to protect investors and the public interest.

When the Exchange filed to restrict Market Maker Peg Orders from operating as Closing Cross/Extended Hours Orders, the Exchange explained that Market Maker Peg Orders were designed to assist members in meeting their quoting obligations and not as a means of submitting interest flagged with an on-close instruction. Furthermore, the Exchange explained that it did not believe that members want functionality that allows Market Maker Peg Orders to be entered with a flag designating an on-close instruction. The Exchange believes that this is true both for Market Maker Peg Orders entered with a TIF that continues after the time of the Nasdaq Closing Cross, and that therefore operate as Closing Cross/Extended Hours Orders, and Market Maker Peg Orders entered with a TIF that causes it to execute solely in the Nasdaq Closing Cross. The Exchange is therefore proposing to reject all Market Maker Peg Orders flagged to participate in the Nasdaq Closing Cross, regardless of TIF. The Exchange believes that this change will perfect the mechanism of a free and open market by eliminating the possibility that members can inadvertently enter this order type combination, while preserving the design of Market Maker Peg Orders to aid members in meeting their quoting obligations.

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<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

In addition, the Exchange believes that the current language in Rule 4702 could be confusing to members and investors when applied to securities that are selected for inclusion in the Tick Size Pilot Program, as these securities are subject to a \$0.05 minimum increment instead of the \$0.01 or \$0.0001 minimum increments cited in the rule today. The Exchange believes that removing the reference to these specific increments will reduce confusion because permissible minimum increments may be \$0.01 or \$0.0001 for most securities, and \$0.05 for a handful of securities selected for inclusion in the Tick Size Pilot Program. The Exchange must round to a permissible minimum increment whenever the First Reference Price is not in such a minimum increment. The proposed rule change makes this clear and will therefore increase transparency to the benefit of members and investors, and help ensure compliance with the Tick Size Pilot Program.

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. With respect to Market Maker Peg Orders flagged for the Nasdaq Closing Cross, the proposed change eliminates an order type combination that is not consistent with the purpose of aiding members in meeting their quoting obligations. Furthermore, the proposed change related to minimum increments properly reflects the increments applicable to securities traded on the Exchange, including securities selected for inclusion in the Tick Size Pilot Program. Neither of these proposed changes is designed to have any significant competitive impact.

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 Act<sup>15</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>16</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.

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

<sup>16</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2017-107 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2017-107. 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-2017-107 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>17</sup>

Eduardo A. Aleman  
Assistant Secretary

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

**EXHIBIT 5**

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

**NASDAQ Stock Market Rules**

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**4702. Order Types.**

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(12) (A) A "Limit On Close Order" or "LOC Order" is an Order Type entered with a price that may be executed only in the Nasdaq Closing Cross, and only if the price determined by the Nasdaq Closing Cross is equal to or better than the price at which the LOC Order was entered. Subject to the qualifications provided below, LOC Orders may be entered, cancelled, and/or modified between 4 a.m. ET and immediately prior to 3:50 p.m. ET. Between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET, an LOC Order may be entered provided that there is a First Reference Price. During this time period an LOC Order can also be cancelled but not modified, and only if the Participant requests that Nasdaq correct a legitimate error in the Order (e.g., Side, Size, Symbol, or Price, or duplication of an Order). An LOC Order entered between 3:50 p.m. ET and immediately prior to 3:55 p.m. ET will be accepted at its limit price, unless its limit price is higher (lower) than the First Reference Price for an LOC Order to buy (sell), in which case the LOC Order will be re-priced to the First Reference Price; provided that if the First Reference Price is not at a permissible minimum increment[ of \$0.01 or \$0.0001, as applicable], the First Reference Price will be rounded (i) to the nearest permitted minimum increment (with midpoint prices being rounded up) if there is no imbalance, (ii) up if there is a buy imbalance, or (iii) down if there is a sell imbalance.

(B) The following Order Attributes may be assigned to a Limit On Close Order:

- Price.
- Size.
- Time-in-Force. In general, an LOC Order may execute only in the Nasdaq Closing Cross. However, a Participant may designate the Time-in-Force for an LOC Order either by designating a Time-in-Force of "On Close," in which case the Order will execute solely in the Nasdaq Closing Cross, or by entering another Order Type and Time-in-Force and flagging the Order to participate in the Nasdaq Closing Cross.

In the latter case, if the Participant designates a Time-in-Force of IOC, the Order will participate solely in the Nasdaq Closing Cross. A Market Maker Peg Order may not be flagged to solely participate in the Nasdaq Closing Cross.

If the Participant enters a Time-in-Force that continues after the time of the Nasdaq Closing Cross, the Order will participate in the Nasdaq Closing Cross like an LOC Order, while operating thereafter in accordance with its designated Order Type and Order

Attributes (if not executed in full in the Nasdaq Closing Cross). Such an Order may be referred to as a "Closing Cross/Extended Hours Order."

A Post-Only Order, Midpoint Peg Post-Only Order, Supplemental Order, or Market Maker Peg Order may not operate as a Closing Cross/Extend Hours Order. A Closing Cross/Extended Hours Order that is entered between 3:50 p.m. and the time of the Nasdaq Closing Cross will be rejected if it has been assigned a Pegging Attribute. A Closing Cross/Extended Hours Order entered through OUCH, FLITE, RASH, or FIX with a Time-in-Force other than IOC after the time of the Nasdaq Closing Cross will be accepted but the Nasdaq Closing Cross flag will be ignored. All other LOC Orders and Closing Cross/Extended Hours Orders entered at or after 3:55 p.m. ET will be rejected.

- Participation in the Nasdaq Closing Cross is required for this Order Type.

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