

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 28	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2019 - * 035	Amendment No. (req. for Amendments *)
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Filing by The Nasdaq Stock Market LLC
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 *).

A proposal to remove the Exchange current Primary Contingency Procedure from the Exchange rule book and designate the Exchange current Secondary Contingency Procedure as the default contingency procedure when a disruption occurs that prevents the execution of the closing cross for a security.

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 * Amma Last Name * Anaman
 Title * Assistant General Counsel
 E-mail * Amma.Anaman@nasdaq.com
 Telephone * (301) 978-8011 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 04/26/2019 By Edward S. Knight
 Global Chief Legal and Policy Officer
 (Name *)

edward.knight@nasdaq.com

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 remove the Exchange’s current Primary Contingency Procedure from the Exchange’s rule book and designate the Exchange’s current Secondary Contingency Procedure as the default contingency procedure when a disruption occurs that prevents the execution of the closing cross for a security.

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 (“Board”) on September 26, 2018. 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:

Amma Anaman
Assistant General Counsel
Nasdaq, Inc.
301-978-8011

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

Nasdaq currently has two contingency plans for determining the Nasdaq Official Closing Price ("NOCP") for a security in the event that Nasdaq experiences a system disruption that precludes normal execution of the Nasdaq closing cross pursuant to Rule 4754. In the event of such disruption, the President of Nasdaq or any Senior Executive designated by the President will be authorized to invoke either the Primary Contingency Procedures set forth in Rule 4754(b)(7) or the Secondary Contingency Procedures set forth in Rule 4754(b)(8) to determine the NOCP, which would be published to the Consolidated Quote/Consolidated Tape Plan ("SIPs"). Nasdaq will employ the Primary Contingency Procedures if at all possible, and it will employ the Secondary Contingency Procedures only if it determines that both the standard procedures and the Primary Contingency Procedures are unavailable.

Under the Primary Contingency Procedures, Nasdaq will employ an offline process using stored order files to determine the size and component executions for the closing cross trade in any and all affected securities on a security-by-security basis and manually deliver execution reports to members.³ Currently, Nasdaq maintains a

³ Currently, under Rule 4754(b)(7), when a disruption occurs that prevents the execution of the closing cross for any security, Nasdaq will identify the last regular way trade reported by the network processor prior to 4:00 p.m. and will publish that price as the NOCP. In the event an impacted security has no consolidated trading in that security for that day, Nasdaq will have no NOCP and no contingency cross for that security. Once Nasdaq has identified the NOCP for a given security, Nasdaq will operate a modified closing cross to determine the number of shares and the specific orders that can be executed at the NOCP. All Market-on-Close ("MOC") orders entered prior to 3:55 p.m., Limit-on-Close ("LOC") orders entered prior to 3:58 p.m., and Imbalance Only orders entered prior to 4:00 p.m. will be eligible to participate in the Contingency Closing Cross.

database of all closing cross orders entered into its execution system, as well as other data regarding order processing. The database is independent of and isolated from the execution system and network and, as a result, it can operate regardless of impairment to those systems. Nasdaq will operate the Primary Contingency Procedures from a server that is also independent of and isolated from the execution system and network, and that is supported by multiple redundant backups.

In the event that Nasdaq's market is impaired and unable to execute a closing auction for all or a subset of listed securities under the standard closing procedures and the Primary Contingency Procedures are unavailable, and Nasdaq determines to follow the Secondary Contingency Procedures at or before 3 p.m. EST, Nasdaq will designate a back-up exchange.⁴ Currently, Nasdaq has designated NYSE Arca as its official back-

Nasdaq will cross and execute eligible MOC and LOC orders in price-time priority. If an order imbalance exists in the MOC and LOC interest that is marketable at the NOCP, Nasdaq will include in the cross Imbalance Only orders on the side of the market with less trading interest in price/time priority, and then execute all MOC, LOC and Imbalance Only orders at the NOCP. Once Nasdaq has completed the Contingency Closing Cross, it will report the results to the appropriate network processor and deliver execution reports to members. After hours trading will begin either as scheduled at 4:00 p.m. or upon resolution of the disruption that triggered Nasdaq to operate the Contingency Closing Cross.

⁴ Currently, under Rule 4754(b)(8)(A), if Nasdaq determines to invoke the Secondary Contingency Procedures at or prior to 3:00 p.m. EST, the official closing price from Nasdaq's designated alternate exchange would serve as the NOCP or, if there is no official closing price on the designated alternate exchange, the NOCP would be the VWAP of the consolidated last-sale eligible prices for the last five minutes of trading during regular trading hours. If there were no consolidated last-sale eligible trades in the last five minutes of trading during regular trading hours, the NOCP would be the last consolidated last-sale eligible trade for such security during regular trading hours on that day or, if there was no last-sale eligible trade, the prior day's NOCP. If no NOCP can be calculated by any of the foregoing methods, the Exchange would not publish an official closing price for the security.

up exchange.⁵ If Nasdaq determines to follow the Secondary Contingency Procedures after 3 p.m., the Exchange would calculate the NOCP with a volume-weighted average price (“VWAP”) calculation.⁶ Nasdaq would invoke the Secondary Contingency Procedures only after it determines that neither the standard closing procedures nor the Primary Contingency Procedures are available. Nasdaq is proposing to eliminate the Primary Contingency Procedures so that the Secondary Contingency Procedures will be the default contingency procedures.

Since June of 2002, Nasdaq has published contingency plans in the event the Nasdaq closing process was to be disrupted during the annual Russell US Index Reconstitution (“Russell Rebalance”). Nasdaq adopted the current Primary Contingency Procedures in 2013 in order to formally include the Exchange’s contingency plans in its rule manual.⁷ In response to evolving technology and industry practice, Nasdaq adopted

⁵ See Securities Exchange Act Release No. 78014 (June 8, 2016), 81 FR 38755 (June 14, 2016) (SR-NASDAQ-2016-035) (“Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Establish Secondary Contingency Procedures for the Exchange’s Closing Cross”).

⁶ Currently, under Rule 4754(b)(8)(B), if Nasdaq determines to invoke the Secondary Contingency Procedures after 3:00 p.m. EST, the VWAP of the consolidated last-sale eligible prices for the last five minutes of trading during regular trading hours would serve as the NOCP. If there were no consolidated last-sale eligible trades in the last five minutes of trading during regular trading hours, the NOCP would be the last consolidated last-sale eligible trade for such security during regular trading hours on that day or, if there was no last-sale eligible trade, the prior day’s NOCP. If no NOCP can be calculated by any of the foregoing methods, the Exchange would not publish an official closing price for the security.

⁷ See Securities Exchange Act Release No. 69880 (June 27, 2013), 78 FR 40223 (July 3, 2013) (SR-NASDAQ-2013-090) (“Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 4754 Governing the NASDAQ Closing Cross (“Cross”)”).

the Secondary Contingency Procedures in 2016.⁸ In conjunction with or shortly after Nasdaq's adoption of the Secondary Contingency procedures, NYSE,⁹ NYSE American,¹⁰ NYSE Arca,¹¹ and Cboe BZX Exchange, Inc. ("Cboe BZX")¹² established contingency procedures materially similar to Nasdaq's Secondary Contingency Procedures.¹³ However, no other national securities exchange has established contingency procedures similar to Nasdaq's Primary Contingency Procedures.¹⁴

⁸ See supra, note 5.

⁹ See Securities Exchange Act Release No. 78015 (June 8, 2016), 81 FR 38747 (June 14, 2016) (SR-NYSE-2016-18) ("Notice of Filings of Amendment No. 1, and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendment No. 1, To Provide for How the Exchanges Would Determine an Official Closing Price if the Exchanges Are Unable To Conduct a Closing Transaction").

¹⁰ See Securities Exchange Act Release No. 78015 (June 8, 2016), 81 FR 38747 (June 14, 2016) (SR-NYSEMKT-2016-31) ("Notice of Filings of Amendment No. 1, and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendment No. 1, To Provide for How the Exchanges Would Determine an Official Closing Price if the Exchanges Are Unable To Conduct a Closing Transaction").

¹¹ See Securities Exchange Act Release No. 78357 (July 19, 2016), 81 FR 48477 (July 25, 2016) (SR-NYSEArca-2016-94) ("Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 1.1 to Establish an Official Closing Price for Exchange-Listed Securities if the Exchange is Unable to Conduct a Closing Auction").

¹² See Securities Exchange Act Release No. 78527 (August 10, 2016), 81 FR 54628 (August 16, 2016) (SR-BatsBZX-2016-47) ("Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish a Closing Contingency Procedure").

¹³ Investors Exchange LLC ("IEX") has also adopted Secondary Closing Auction Contingency Procedures under Rule 11.350(d)(4)(B) that are similar to Nasdaq's Secondary Contingency Procedures.

¹⁴ IEX has adopted Primary Closing Auction Contingency Procedures under Rule 11.350(d)(4)(A)(i). If IEX determines to initiate the Primary Closing Auction Contingency Procedures, IEX will publicly announce that no Closing Auction

Further, the Primary Contingency Procedures have never been invoked by the Exchange. Nasdaq is proposing to eliminate the Primary Contingency Procedures so that the Secondary Contingency Procedures will be the default contingency procedure.

Nasdaq believes that removing the Primary Contingency Procedures and utilizing the Secondary Contingency Procedures in the event Nasdaq is unable to execute a closing cross would harmonize the Exchange's contingency procedures with those of other national securities exchanges, which would provide market participants with consistency and predictability in the event that an exchange is impaired and cannot conduct a closing auction. Furthermore, Nasdaq believes that the Secondary Contingency Procedures best preserves Nasdaq's ability to move quickly to establish a reliable closing price under unusual conditions, as compared to the Primary Contingency Procedures, which utilize an offline process that requires Nasdaq to determine the size and component executions for the closing cross on a security-by-security basis using stored order files and manually

will occur. The price of the Final Consolidated Last Sale Eligible Trade will be used for the IEX Official Closing Price. The IEX Official Closing Price will be published to the Consolidated Tape. IEX will execute orders on the Closing Auction Book at the IEX Official Closing Price to the extent executable buy and sell interest exists on the Closing Auction Book. All remaining orders on the Order Book will be canceled at the conclusion of the contingency process. IEX will report the resulting execution to the Consolidated Tape and deliver execution reports to Users. If a security's IEX Official Closing Price cannot be determined by this subsection, IEX will not publish an IEX Official Closing Price for the security and will cancel all orders on the Order Book. The Post Market Session shall begin either as scheduled, or upon resolution of the disruption that triggered IEX to operate the Primary Contingency Procedures. In contrast, if Nasdaq determines to initiate the Primary Contingency Procedures, Nasdaq will identify the last consolidated regular way trade reported by the network processor prior to 4:00 p.m. and shall publish that price as the Nasdaq Official Closing Price for that security. Once Nasdaq has identified the NOCP for a given security, Nasdaq will operate a modified closing cross to determine the number of shares and the specific orders that can be executed at the NOCP. See supra, note 3.

deliver execution reports to members. The Exchange believes that having robust, efficient contingency procedures is particularly important on high volume trading days, such as the Russell Rebalance, which occurs annually in June.¹⁵

In addition, Nasdaq proposes to delete text in Rule 4754(b)(7) describing the information that the Exchange will use when determining whether to employ the Primary or Secondary Contingency Procedures because the Secondary Contingency Procedures will be the default contingency procedure under the proposed rule change. The Exchange also proposes to add “VWAP” as a defined term that was inadvertently omitted in the previous version of Rule 4754(b)(8)(A)(ii); update Rule 4754(b)(8)(B)(i) to include the new defined term “VWAP”; and add an “or” that was inadvertently omitted in the previous version of Rule 4754(b)(8)(B)(ii) and Rule 4754(b)(8)(B)(iii). Lastly, the Exchange proposes renumbering the current Rule 4754(b)(8) as Rule 4754(b)(7) to maintain a clear and organized rule structure.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁷ 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. The proposal is consistent with this provision of the Act in that it will ensure that the Exchange continues

¹⁵ See FTSE Russell, “Russell US Index Reconstitution”, available at: <https://www.ftserussell.com/index-series/index-resources/russell-reconstitution>.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

to operate a fair and orderly market and to provide for an effective pricing mechanism for the critical period of the market close in the event of a disruption where Nasdaq is unable to execute a closing cross in a way that is consistent with the contingency procedures utilized by other national securities exchanges, which helps ensure transparency, consistency and predictability for market participants. The Exchange believes that having robust contingency procedures is particularly important on high volume trading days, such as the Russell Rebalance, which occurs annually in June.

With respect to the Exchange's proposals to delete text in Rule 4754(b)(7) describing the information that the Exchange will use when determining whether to employ the Primary or Secondary Contingency Procedures; add "VWAP" as a defined term that was inadvertently omitted in the previous version of Rule 4754(b)(8)(A)(ii); update Rule 4754(b)(8)(B)(i) to include the new defined term "VWAP"; and add an "or" that was inadvertently omitted in the previous version of Rule 4754(b)(8)(B)(ii) and Rule 4754(b)(8)(B)(iii), the Exchange believes that these changes are consistent with the Act because they will improve the readability and clarity of the Rule. These changes are not substantive. Lastly, the Exchange believes that its proposal to renumber the current Rule 4754(b)(8) as Rule 4754(b)(7) is consistent with the Act because it will allow the Exchange to maintain a clear and organized rule structure and prevent investor confusion.

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 rule change is not designed to address any competitive issues, but rather to provide for how the Exchange would determine the NOCP for Exchange-listed securities in the event that Nasdaq experiences a system disruption that precludes normal

execution of the Nasdaq closing cross. This is designed to reduce the burden on competition by having similar back-up procedures across other primary listing exchanges¹⁸ if such exchange is impaired and cannot conduct a closing auction. This proposal will maintain the Secondary Contingency Procedures, which were crafted with input from industry participants, the Exchange, and the SIPs, and remove the Primary Contingency Procedures, which are inconsistent with industry practices.

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)¹⁹ of the Act and Rule 19b-4(f)(6) thereunder²⁰ 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

¹⁸ NYSE, NYSE American, NYSE Arca and Cboe BZX have established contingency procedures materially similar to Nasdaq's Secondary Contingency Procedures and do not have primary contingency procedures. IEX has established a secondary contingency procedure similar to Nasdaq's and a primary contingency procedure that differs from Nasdaq's. See *supra*, notes 9 to 14.

¹⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁰ 17 CFR 240.19b-4(f)(6).

interest.

The Exchange believes that this proposal does not significantly affect the protection of investors or the public interest because it is simply removing a contingency procedure that is inconsistent with industry standard in order to harmonize the Exchange's contingency procedures with those of other national stock exchanges.²¹ The Exchange also believes that the proposed rule change does not impose any significant burden on competition; rather, it will reduce the burden on competition by having similar back-up procedures across all primary listing exchanges if such exchange is impaired and cannot conduct a closing auction.

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 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 necessary or appropriate in the public interest, for the protection of investors, or 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

²¹ See supra, note 18.

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 immediately utilize the Secondary Contingency Procedure as the default contingency procedure in the event that Nasdaq is unable to execute a closing cross, particularly on high volume trading days, such as the Russell Rebalance, which occurs annually in June.

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-2019-035)

April __, 2019

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Remove the Exchange's Current Primary Contingency Procedure from the Exchange's Rule Book

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 April 26, 2019, 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 remove the Exchange's current Primary Contingency Procedure from the Exchange's rule book and designate the Exchange's current Secondary Contingency Procedure as the default contingency procedure when a disruption occurs that prevents the execution of the closing cross for a security.

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 currently has two contingency plans for determining the Nasdaq Official Closing Price ("NOCP") for a security in the event that Nasdaq experiences a system disruption that precludes normal execution of the Nasdaq closing cross pursuant to Rule 4754. In the event of such disruption, the President of Nasdaq or any Senior Executive designated by the President will be authorized to invoke either the Primary Contingency Procedures set forth in Rule 4754(b)(7) or the Secondary Contingency Procedures set forth in Rule 4754(b)(8) to determine the NOCP, which would be published to the Consolidated Quote/Consolidated Tape Plan ("SIPs"). Nasdaq will employ the Primary Contingency Procedures if at all possible, and it will employ the Secondary Contingency Procedures only if it determines that both the standard procedures and the Primary Contingency Procedures are unavailable.

Under the Primary Contingency Procedures, Nasdaq will employ an offline process using stored order files to determine the size and component executions for the closing cross trade in any and all affected securities on a security-by-security basis and

manually deliver execution reports to members.³ Currently, Nasdaq maintains a database of all closing cross orders entered into its execution system, as well as other data regarding order processing. The database is independent of and isolated from the execution system and network and, as a result, it can operate regardless of impairment to those systems. Nasdaq will operate the Primary Contingency Procedures from a server that is also independent of and isolated from the execution system and network, and that is supported by multiple redundant backups.

In the event that Nasdaq's market is impaired and unable to execute a closing auction for all or a subset of listed securities under the standard closing procedures and the Primary Contingency Procedures are unavailable, and Nasdaq determines to follow the Secondary Contingency Procedures at or before 3 p.m. EST, Nasdaq will designate

³ Currently, under Rule 4754(b)(7), when a disruption occurs that prevents the execution of the closing cross for any security, Nasdaq will identify the last regular way trade reported by the network processor prior to 4:00 p.m. and will publish that price as the NOCP. In the event an impacted security has no consolidated trading in that security for that day, Nasdaq will have no NOCP and no contingency cross for that security. Once Nasdaq has identified the NOCP for a given security, Nasdaq will operate a modified closing cross to determine the number of shares and the specific orders that can be executed at the NOCP. All Market-on-Close ("MOC") orders entered prior to 3:55 p.m., Limit-on-Close ("LOC") orders entered prior to 3:58 p.m., and Imbalance Only orders entered prior to 4:00 p.m. will be eligible to participate in the Contingency Closing Cross. Nasdaq will cross and execute eligible MOC and LOC orders in price-time priority. If an order imbalance exists in the MOC and LOC interest that is marketable at the NOCP, Nasdaq will include in the cross Imbalance Only orders on the side of the market with less trading interest in price/time priority, and then execute all MOC, LOC and Imbalance Only orders at the NOCP. Once Nasdaq has completed the Contingency Closing Cross, it will report the results to the appropriate network processor and deliver execution reports to members. After hours trading will begin either as scheduled at 4:00 p.m. or upon resolution of the disruption that triggered Nasdaq to operate the Contingency Closing Cross.

a back-up exchange.⁴ Currently, Nasdaq has designated NYSE Arca as its official back-up exchange.⁵ If Nasdaq determines to follow the Secondary Contingency Procedures after 3 p.m., the Exchange would calculate the NOCP with a volume-weighted average price (“VWAP”) calculation.⁶ Nasdaq would invoke the Secondary Contingency Procedures only after it determines that neither the standard closing procedures nor the Primary Contingency Procedures are available. Nasdaq is proposing to eliminate the Primary Contingency Procedures so that the Secondary Contingency Procedures will be the default contingency procedures.

⁴ Currently, under Rule 4754(b)(8)(A), if Nasdaq determines to invoke the Secondary Contingency Procedures at or prior to 3:00 p.m. EST, the official closing price from Nasdaq’s designated alternate exchange would serve as the NOCP or, if there is no official closing price on the designated alternate exchange, the NOCP would be the VWAP of the consolidated last-sale eligible prices for the last five minutes of trading during regular trading hours. If there were no consolidated last-sale eligible trades in the last five minutes of trading during regular trading hours, the NOCP would be the last consolidated last-sale eligible trade for such security during regular trading hours on that day or, if there was no last-sale eligible trade, the prior day’s NOCP. If no NOCP can be calculated by any of the foregoing methods, the Exchange would not publish an official closing price for the security.

⁵ See Securities Exchange Act Release No. 78014 (June 8, 2016), 81 FR 38755 (June 14, 2016) (SR-NASDAQ-2016-035) (“Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Establish Secondary Contingency Procedures for the Exchange’s Closing Cross”).

⁶ Currently, under Rule 4754(b)(8)(B), if Nasdaq determines to invoke the Secondary Contingency Procedures after 3:00 p.m. EST, the VWAP of the consolidated last-sale eligible prices for the last five minutes of trading during regular trading hours would serve as the NOCP. If there were no consolidated last-sale eligible trades in the last five minutes of trading during regular trading hours, the NOCP would be the last consolidated last-sale eligible trade for such security during regular trading hours on that day or, if there was no last-sale eligible trade, the prior day’s NOCP. If no NOCP can be calculated by any of the foregoing methods, the Exchange would not publish an official closing price for the security.

Since June of 2002, Nasdaq has published contingency plans in the event the Nasdaq closing process was to be disrupted during the annual Russell US Index Reconstitution (“Russell Rebalance”). Nasdaq adopted the current Primary Contingency Procedures in 2013 in order to formally include the Exchange’s contingency plans in its rule manual.⁷ In response to evolving technology and industry practice, Nasdaq adopted the Secondary Contingency Procedures in 2016.⁸ In conjunction with or shortly after Nasdaq’s adoption of the Secondary Contingency procedures, NYSE,⁹ NYSE American,¹⁰ NYSE Arca,¹¹ and Cboe BZX Exchange, Inc. (“Cboe BZX”)¹² established

⁷ See Securities Exchange Act Release No. 69880 (June 27, 2013), 78 FR 40223 (July 3, 2013) (SR-NASDAQ-2013-090) (“Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 4754 Governing the NASDAQ Closing Cross (“Cross”)”).

⁸ See supra, note 5.

⁹ See Securities Exchange Act Release No. 78015 (June 8, 2016), 81 FR 38747 (June 14, 2016) (SR-NYSE-2016-18) (“Notice of Filings of Amendment No. 1, and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendment No. 1, To Provide for How the Exchanges Would Determine an Official Closing Price if the Exchanges Are Unable To Conduct a Closing Transaction”).

¹⁰ See Securities Exchange Act Release No. 78015 (June 8, 2016), 81 FR 38747 (June 14, 2016) (SR-NYSEMKT-2016-31) (“Notice of Filings of Amendment No. 1, and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendment No. 1, To Provide for How the Exchanges Would Determine an Official Closing Price if the Exchanges Are Unable To Conduct a Closing Transaction”).

¹¹ See Securities Exchange Act Release No. 78357 (July 19, 2016), 81 FR 48477 (July 25, 2016) (SR- NYSEArca-2016-94) (“Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 1.1 to Establish an Official Closing Price for Exchange-Listed Securities if the Exchange is Unable to Conduct a Closing Auction”).

¹² See Securities Exchange Act Release No. 78527 (August 10, 2016), 81 FR 54628 (August 16, 2016) (SR-BatsBZX-2016-47) (“Notice of Filing and Immediate

contingency procedures materially similar to Nasdaq's Secondary Contingency Procedures.¹³ However, no other national securities exchange has established contingency procedures similar to Nasdaq's Primary Contingency Procedures.¹⁴ Further, the Primary Contingency Procedures have never been invoked by the Exchange. Nasdaq is proposing to eliminate the Primary Contingency Procedures so that the Secondary Contingency Procedures will be the default contingency procedure.

Nasdaq believes that removing the Primary Contingency Procedures and utilizing the Secondary Contingency Procedures in the event Nasdaq is unable to execute a closing

Effectiveness of a Proposed Rule Change To Establish a Closing Contingency Procedure”).

¹³ Investors Exchange LLC (“IEX”) has also adopted Secondary Closing Auction Contingency Procedures under Rule 11.350(d)(4)(B) that are similar to Nasdaq's Secondary Contingency Procedures.

¹⁴ IEX has adopted Primary Closing Auction Contingency Procedures under Rule 11.350(d)(4)(A)(i). If IEX determines to initiate the Primary Closing Auction Contingency Procedures, IEX will publicly announce that no Closing Auction will occur. The price of the Final Consolidated Last Sale Eligible Trade will be used for the IEX Official Closing Price. The IEX Official Closing Price will be published to the Consolidated Tape. IEX will execute orders on the Closing Auction Book at the IEX Official Closing Price to the extent executable buy and sell interest exists on the Closing Auction Book. All remaining orders on the Order Book will be canceled at the conclusion of the contingency process. IEX will report the resulting execution to the Consolidated Tape and deliver execution reports to Users. If a security's IEX Official Closing Price cannot be determined by this subsection, IEX will not publish an IEX Official Closing Price for the security and will cancel all orders on the Order Book. The Post Market Session shall begin either as scheduled, or upon resolution of the disruption that triggered IEX to operate the Primary Contingency Procedures. In contrast, if Nasdaq determines to initiate the Primary Contingency Procedures, Nasdaq will identify the last consolidated regular way trade reported by the network processor prior to 4:00 p.m. and shall publish that price as the Nasdaq Official Closing Price for that security. Once Nasdaq has identified the NOCP for a given security, Nasdaq will operate a modified closing cross to determine the number of shares and the specific orders that can be executed at the NOCP. See supra, note 3.

cross would harmonize the Exchange's contingency procedures with those of other national securities exchanges, which would provide market participants with consistency and predictability in the event that an exchange is impaired and cannot conduct a closing auction. Furthermore, Nasdaq believes that the Secondary Contingency Procedures best preserves Nasdaq's ability to move quickly to establish a reliable closing price under unusual conditions, as compared to the Primary Contingency Procedures, which utilize an offline process that requires Nasdaq to determine the size and component executions for the closing cross on a security-by-security basis using stored order files and manually deliver execution reports to members. The Exchange believes that having robust, efficient contingency procedures is particularly important on high volume trading days, such as the Russell Rebalance, which occurs annually in June.¹⁵

In addition, Nasdaq proposes to delete text in Rule 4754(b)(7) describing the information that the Exchange will use when determining whether to employ the Primary or Secondary Contingency Procedures because the Secondary Contingency Procedures will be the default contingency procedure under the proposed rule change. The Exchange also proposes to add "VWAP" as a defined term that was inadvertently omitted in the previous version of Rule 4754(b)(8)(A)(ii); update Rule 4754(b)(8)(B)(i) to include the new defined term "VWAP"; and add an "or" that was inadvertently omitted in the previous version of Rule 4754(b)(8)(B)(ii) and Rule 4754(b)(8)(B)(iii). Lastly, the Exchange proposes renumbering the current Rule 4754(b)(8) as Rule 4754(b)(7) to maintain a clear and organized rule structure.

¹⁵ See FTSE Russell, "Russell US Index Reconstitution", available at: <https://www.ftserussell.com/index-series/index-resources/russell-reconstitution>.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁷ 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. The proposal is consistent with this provision of the Act in that it will ensure that the Exchange continues to operate a fair and orderly market and to provide for an effective pricing mechanism for the critical period of the market close in the event of a disruption where Nasdaq is unable to execute a closing cross in a way that is consistent with the contingency procedures utilized by other national securities exchanges, which helps ensure transparency, consistency and predictability for market participants. The Exchange believes that having robust contingency procedures is particularly important on high volume trading days, such as the Russell Rebalance, which occurs annually in June.

With respect to the Exchange's proposals to delete text in Rule 4754(b)(7) describing the information that the Exchange will use when determining whether to employ the Primary or Secondary Contingency Procedures; add "VWAP" as a defined term that was inadvertently omitted in the previous version of Rule 4754(b)(8)(A)(ii); update Rule 4754(b)(8)(B)(i) to include the new defined term "VWAP"; and add an "or" that was inadvertently omitted in the previous version of Rule 4754(b)(8)(B)(ii) and Rule 4754(b)(8)(B)(iii), the Exchange believes that these changes are consistent with the Act

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

because they will improve the readability and clarity of the Rule. These changes are not substantive. Lastly, the Exchange believes that its proposal to renumber the current Rule 4754(b)(8) as Rule 4754(b)(7) is consistent with the Act because it will allow the Exchange to maintain a clear and organized rule structure and prevent investor confusion.

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 rule change is not designed to address any competitive issues, but rather to provide for how the Exchange would determine the NOCP for Exchange-listed securities in the event that Nasdaq experiences a system disruption that precludes normal execution of the Nasdaq closing cross. This is designed to reduce the burden on competition by having similar back-up procedures across other primary listing exchanges¹⁸ if such exchange is impaired and cannot conduct a closing auction. This proposal will maintain the Secondary Contingency Procedures, which were crafted with input from industry participants, the Exchange, and the SIPs, and remove the Primary Contingency Procedures, which are inconsistent with industry practices.

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.

¹⁸ NYSE, NYSE American, NYSE Arca and Cboe BZX have established contingency procedures materially similar to Nasdaq's Secondary Contingency Procedures and do not have primary contingency procedures. IEX has established a secondary contingency procedure similar to Nasdaq's and a primary contingency procedure that differs from Nasdaq's. See supra, notes 9 to 14.

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 Act¹⁹ and subparagraph (f)(6) of Rule 19b-4 thereunder.²⁰

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 necessary or appropriate in the public interest, for the protection of investors, or 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:

¹⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁰ 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.

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-2019-035 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-2019-035. 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-2019-035 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.²¹

Eduardo A. Aleman
Assistant Secretary

²¹ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

The Nasdaq Stock Market Rules

* * * * *

4754. Nasdaq Closing Cross

(a) No change.

(b) No change.

(1) – (6) No change.

(7) [Primary] Contingency Procedures. When a disruption occurs that prevents the execution of the Closing Cross as set forth above, Nasdaq shall apply [either Primary] the Contingency Procedures pursuant to this paragraph (7) [or Secondary Contingency Procedures pursuant to paragraph (8) below].

Nasdaq will employ the [Primary] Contingency Procedures [if at all possible, and it will employ the Secondary Contingency Procedures] only if it determines that [both] the standard procedures [and the Primary Contingency Procedures] are unavailable. [The determination to employ Primary or Secondary Contingency Procedures will be based upon all available information, including the type of disruption, the system or sub-system disrupted, the availability of testing and diagnostic data, and observed member and market impact.]

The determination to implement [Primary or Secondary] the Contingency Procedures shall be made by the President of Nasdaq or any Senior Executive designated by the President. If such disruption occurs, Nasdaq shall publicly announce at the earliest possible time the initiation of [Primary or Secondary] the Contingency Procedures via system status alerts, Equity Trader Alerts, and email notification directories. If Nasdaq determines to initiate the [Primary] Contingency Procedures, the following provisions shall apply.

[(A) For each security, Nasdaq shall identify the last regular-way trade reported by the network processor prior to 4:00 p.m. and shall publish that price as the Nasdaq Official Closing Price for that security. For securities in which there has been no consolidated trading in that security for that day, there shall be no Nasdaq Official Closing Price and no Closing Cross.

(B) Nasdaq shall identify and segregate all MOC Orders entered prior to 3:55 p.m., all LOC Orders entered prior to 3:58 p.m., and all Imbalance Only orders entered prior to 4:00 p.m. Only these MOC, LOC, and Imbalance Only Orders shall be eligible to participate in the Contingency Closing Cross.

(C) Nasdaq shall cross and execute eligible MOC and LOC Orders in price time priority in order to maximize the trading interest executed at the Nasdaq Official Closing Price. If an order imbalance exists, Nasdaq shall include in the cross Imbalance Only Orders on the side of the market with less trading interest in price/time priority, and then execute all MOC, LOC and Imbalance Only Orders at the Nasdaq Official Closing Price.

(D) Nasdaq shall report the results of the Contingency Closing Cross to the network processor for each security, and deliver execution reports to members.

(E) After hours trading shall begin either as scheduled at 4:00 p.m. or upon resolution of the disruption that triggered Nasdaq to operate the Contingency Closing Cross.

(8) Secondary Contingency Procedures. When a determination to implement Secondary Contingency Procedures has been made by the President of Nasdaq or any Senior Executive designated by the President pursuant to paragraph (7) above, Nasdaq shall publicly announce this determination at the earliest possible time via system status alerts, Equity Trader Alerts, and email notification directories. The following procedures shall apply.]

(A) If Nasdaq determines to follow [Secondary] the Contingency Procedures for one or more securities at or before 3:00 p.m., Nasdaq will designate an alternate exchange and the Nasdaq Official Closing Price for those securities will be:

(i) the official closing price established for such security under the rules of the designated alternate exchange; or

(ii) if there is no official closing price in a security on the designated alternate exchange, the Nasdaq Official Closing Price will be the volume-weighted average price (“VWAP”) of the consolidated last-sale eligible prices of the last five minutes of trading during regular trading hours, including any closing transactions on an exchange and any trade breaks or corrections up to the time the VWAP is processed; or

(iii) if there were no consolidated last-sale eligible trades in the last five minutes of trading during regular trading hours, the Nasdaq Official Closing Price of such security will be the last consolidated last-sale eligible trade for such security during regular trading hours on that trading day; or

(iv) if there were no consolidated last-sale eligible trades the Nasdaq Official Closing Price of such security will be the prior day's Nasdaq Official Closing Price; or

(v) If no Nasdaq Official Closing Price for a security can be determined under subsections (i), (ii), (iii) or (iv) above, the Exchange would not publish an Official Closing Price for such security.

(B) If Nasdaq determines to follow [Secondary Closing] the Contingency Procedures for one or more securities after 3:00 p.m., the Nasdaq Official Closing Price for those securities will be:

(i) the [volume-weighted average price] VWAP of the consolidated last-sale eligible prices of the last five minutes of trading during regular trading hours, including any closing transactions on an exchange and any trade breaks or corrections up to the time the VWAP is processed; or

(ii) if there were no consolidated last-sale eligible trades in the last five minutes of trading during regular trading hours, the Nasdaq Official Closing Price of such security will be the last consolidated last-sale eligible trade for such security during regular trading hours on that trading day; or

(iii) if there were no consolidated last-sale eligible trades on the day in question, the Nasdaq Official Closing Price of such security will be the prior day's Nasdaq Official Closing Price[.]; or

(iv) If no Nasdaq Official Closing Price for a security can be determined under subsections (i), (ii) or (iii) above, the Exchange would not publish an Official Closing Price for such security.

(C) Nasdaq shall cancel all open interest designated for the Nasdaq close residing in Nasdaq systems to give members the opportunity to route their orders to alternative execution venues.

(D) After hours trading shall begin either as scheduled at 4:00 p.m. or upon resolution of the disruption that triggered Nasdaq to operate the [Secondary] Contingency [Closing] Procedures.

* * * * *