Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Global Chief Legal and Policy Officer

09/17/2019

Date

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

A proposal to delay implementation of the Early Order Imbalance Indicator functionality.

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 * Brett

Last Name * Kitt

Title * Senior Associate General Counsel

E-mail * Brett.Kitt@nasdaq.com

Telephone * (301) 978-8132

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.

Global Chief Legal and Policy Officer

09/17/2019

Date

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.
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.

Partial Amendment
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 delay implementation of the Early Order Imbalance Indicator functionality until Q4 2019.

   The Exchange requests that the Commission waive the five day pre-filing requirement and the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).\(^3\)

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

   (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 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:

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

   a. **Purpose**

      On February 27, 2019, the Exchange filed a proposed rule change to establish the Early Order Imbalance Indicator (“EOII”), which contains a subset of the information comprising the Net Order Imbalance Indicator (“NOII”) that the Exchange will disseminate ten minutes prior to the market close and five minutes prior to the cutoff time for entering Market on Close and certain Limit on Close Orders into the Nasdaq Closing Cross.\(^4\) The proposed rule change indicated that the Exchange would implement EOII in Q2 2019.\(^5\) The Exchange subsequently delayed the implementation of EOII functionality until Q3 2019.\(^6\) The Exchange now proposes to further delay the implementation of EOII functionality until Q4 2019. The Exchange will issue an Equity Trader Alert notifying participants prior to implementing the functionality. The Exchange proposes this delay to allow the EOII to become effective at the same time as a pending change to enhance the closing process for the Exchange.\(^7\) The delay will also afford additional time that Exchange participants have requested to prepare for the onset of EOII.

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\(^5\) See id. at 9850.


b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,\(^8\) in general, and furthers the objectives of Section 6(b)(5) of the Act,\(^9\) in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by allowing the Exchange additional time to implement the EOII in conjunction with a related enhancement to the Closing Cross process. The delay would also afford participants the additional time they have requested to prepare for the onset of EOII.

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 Exchange’s proposal to delay the implementation of the EOII functionality does not impose an undue burden on competition. Delaying EOII will simply allow the Exchange additional time to implement the EOII in conjunction with a related enhancement to the Closing Cross process. The delay will also afford participants the additional time they have requested to prepare for the onset of EOII.

5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.


7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)\(^{10}\) of the Act and Rule 19b-4(f)(6) thereunder\(^{11}\) 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 proposal does not significantly affect the protection of investors or the public interest because delaying EOII will benefit the Exchange and investors by allowing the Exchange additional time to implement EOII in conjunction with a related enhancement to the Closing Cross process. The delay will also afford participants the additional time they have requested to prepare for the onset of EOII. The Exchange does not believe that the proposal will impose any significant burden on competition for the same reason.

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 a waiver of this requirement so that the Exchange may notify participants of the implementation delay as soon as possible.

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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 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 provide prior notice of the implementation delay as early as possible.

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

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Further Delay Implementation of the Early Order Imbalance Indicator Functionality

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 September 17, 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 delay implementation of the Early Order Imbalance Indicator functionality until Q4 2019.

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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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 February 27, 2019, the Exchange filed a proposed rule change to establish the Early Order Imbalance Indicator (“EOII”), which contains a subset of the information comprising the Net Order Imbalance Indicator (“NOII”) that the Exchange will disseminate ten minutes prior to the market close and five minutes prior to the cutoff time for entering Market on Close and certain Limit on Close Orders into the Nasdaq Closing Cross.3 The proposed rule change indicated that the Exchange would implement EOII in Q2 2019.4 The Exchange subsequently delayed the implementation of EOII functionality until Q3 2019.5 The Exchange now proposes to further delay the implementation of EOII functionality until Q4 2019. The Exchange will issue an Equity Trader Alert notifying participants prior to implementing the functionality. The Exchange proposes this delay to allow the EOII to become effective at the same time as a pending change to enhance the

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4 See id. at 9850.
closing process for the Exchange.\textsuperscript{6} The delay will also afford additional time that Exchange participants have requested to prepare for the onset of EOII.

\begin{enumerate}
\item \textbf{Statutory Basis}
\end{enumerate}

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,\textsuperscript{7} in general, and furthers the objectives of Section 6(b)(5) of the Act,\textsuperscript{8} 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 by allowing the Exchange additional time to implement the EOII in conjunction with a related enhancement to the Closing Cross process. The delay would also afford participants the additional time they have requested to prepare for the onset of EOII.

\begin{enumerate}
\item \textbf{Self-Regulatory Organization’s Statement on Burden on Competition}
\end{enumerate}

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 Exchange’s proposal to delay the implementation of the EOII functionality does not impose an undue burden on competition. Delaying EOII will simply allow the Exchange additional time to implement the EOII in conjunction with a related enhancement to the Closing Cross process. The delay will also afford participants the additional time they have requested to prepare for the onset of EOII.

\begin{itemize}
\item \textsuperscript{7} 15 U.S.C. 78f(b).
\item \textsuperscript{8} 15 U.S.C. 78f(b)(5).
\end{itemize}
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\textsuperscript{9} and subparagraph (f)(6) of Rule 19b-4 thereunder.\textsuperscript{10}

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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.


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

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission’s Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2019-075 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-2019-075. 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-2019-075 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.\textsuperscript{11}

Eduardo A. Aleman
Assistant Secretary

\textsuperscript{11} 17 CFR 200.30-3(a)(12).