

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 - 2019 - * 080 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"/>
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 checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
	Section 3C(b)(2) * <input type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

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

Proposal to adopt fees for the MIDP order routing option.

**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 \* Sean Last Name \* Bennett  
 Title \* Principal Associate General Counsel  
 E-mail \* Sean.Bennett@nasdaq.com  
 Telephone \* (301) 978-8499 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 \*)  
Global Chief Legal and Policy Officer

Date 09/18/2019  
By Edward S. Knight  
(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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“Commission”) a proposal to adopt fees for the MIDP order routing option.

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 (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:

T. Sean Bennett  
Principal Associate General Counsel  
Nasdaq, Inc.  
(301) 978-8499

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

<sup>2</sup> 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

The Exchange is proposing<sup>3</sup> to adopt fees for the MIDP order routing option.<sup>4</sup> MIDP is an order routing<sup>5</sup> option under Rule 4758(a)(1)(A), which will allow members to seek midpoint liquidity on Nasdaq and other markets on the System routing table.<sup>6</sup> Specifically, the MIDP order routing option may be assigned only to a Non-Displayed Order Type<sup>7</sup> with a Midpoint Pegging Order Attribute.<sup>8</sup> An Order with MIDP to buy

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<sup>3</sup> The Exchange initially filed the proposed pricing changes on August 27, 2019 (SR-NASDAQ-2019-068). On September 9, 2019, the Exchange withdrew that filing and submitted a replacement filing (SR-NASDAQ-2019-076). On September 18, 2019, the exchange withdrew that filing and submitted this filing.

<sup>4</sup> See <http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2019-60>; see also Securities Exchange Act Release No. 86087 (June 11, 2019), 84 FR 28117 (June 17, 2019) (SR-NASDAQ-2019-050).

<sup>5</sup> Routing is an Order Attribute that allows a Participant to designate an Order to employ one of several Routing Strategies (also called "routing options") offered by Nasdaq, as described in Rule 4758; such an Order may be referred to as a "Routable Order." Upon receipt of an Order with the Routing Order Attribute, the System will process the Order in accordance with the applicable Routing Strategy. In the case of a limited number of Routing Strategies, the Order will be sent directly to other market centers for potential execution. For most other Routing Strategies, including MIDP, the Order will attempt to access liquidity available on Nasdaq in the manner specified for the underlying Order Type and will then be routed in accordance with the applicable Routing Strategy. Shares of the Order that cannot be executed are then returned to Nasdaq, where they will (i) again attempt to access liquidity available on Nasdaq and (ii) post to the Nasdaq Book or be cancelled, depending on the Time-in-Force of the Order. See Rule 4703(f).

<sup>6</sup> The term "System routing table" refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. Nasdaq reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. See Rule 4758(a)(1)(A).

<sup>7</sup> See Rule 4702(b)(3).

(sell) will check the System for available shares and then the remaining shares are routed to destinations on the System routing table<sup>9</sup> that support midpoint eligible orders with a limit price that is at the lesser (greater) of: (1) the current NBO (NBB); or (2) the Order's entered limit price (if applicable).<sup>10</sup> If shares remain unexecuted after routing, the Order returns to Nasdaq and will check the System for available shares, with remaining shares posted on the Nasdaq Book<sup>11</sup> as a Non-Displayed Order with a Midpoint Pegging Order Attribute (unless an IOC).<sup>12</sup>

The Exchange is proposing to adopt fees under Equity 7, Section 118(a) for use of the MIDP order routing option. First, the Exchange is proposing to adopt a fee of

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<sup>8</sup> Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer (the "Midpoint"). See Rule 4703(d).

<sup>9</sup> The Order is routed sequentially to the various venues on the System routing table in the full amount. An Order with MIDP and a Minimum Quantity Order Attribute will similarly route to the venues sequentially.

<sup>10</sup> If the entered limit price of a buy (sell) Order entered with MIDP is less (greater) than the current Midpoint price, the Order will not be routed but will instead be posted on the Nasdaq Book as a Midpoint Peg Order (if not an IOC). Once on the Nasdaq Book, if the NBBO moves and the Order's limit price is equal to the midpoint of the NBBO, the Order would not subsequently route. If the NBBO updates so that a resting Order with MIDP should be updated to a new midpoint price, it will be routed again and if shares remain unexecuted after routing, the Order will check the System for available shares with remaining shares reposted to the Nasdaq Book.

<sup>11</sup> See Rule 4701(a).

<sup>12</sup> An Order with the MIDP routing option will only be accepted with a Time-in-Force of Market Hours DAY or IOC and may not be flagged to participate in any of the Nasdaq Crosses. Unexecuted shares of an order with the MIDP routing option will check the System for available shares with remaining shares posted on the Nasdaq Book (unless an IOC Order) as a Non-Displayed Order with a Midpoint Pegging Order Attribute.

\$0.0030 per share executed in securities of all three Tapes,<sup>13</sup> charged to a member entering an MIDP Order that routes and executes at venues with a protected quotation under Regulation NMS other than BX, or Nasdaq. Rule 600(b)(62) of Regulation NMS defines a protected quotation as a protected bid or a protected offer, which are defined as a quotation in an NMS stock that: (i) is displayed by an automated trading center;<sup>14</sup> (ii) is disseminated pursuant to an effective national market system plan; and (iii) is an automated quotation that is the best bid or best offer of a national securities exchange, the best bid or best offer of The Nasdaq Stock Market, Inc., or the best bid or best offer of a national securities association other than the best bid or best offer of The Nasdaq Stock Market, Inc.<sup>15</sup> The Exchange is proposing to adopt a \$0.0012 per share executed fee in securities of all three Tapes, charged to a member entering an MIDP Order that routes and executes at venues ineligible for a protected quotation under Regulation NMS. The

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<sup>13</sup> Securities listed on Nasdaq are Tape C securities, securities listed on NYSE are Tape A securities, and securities listed on exchanges other than Nasdaq and NYSE are Tape B securities (collectively, the “Tapes”).

<sup>14</sup> Trading center is defined as a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. See Rule 600(b)(82) of Regulation NMS. An automated trading center is a trading center that: (i) has implemented such systems, procedures, and rules as are necessary to render it capable of displaying quotations that meet the requirements for an automated quotation set forth in Rule 600(b)(4) of Regulation NMS; (ii) identifies all quotations other than automated quotations as manual quotations; (iii) immediately identifies its quotations as manual quotations whenever it has reason to believe that it is not capable of displaying automated quotations; and (iv) has adopted reasonable standards limiting when its quotations change from automated quotations to manual quotations, and vice versa, to specifically defined circumstances that promote fair and efficient access to its automated quotations and are consistent with the maintenance of fair and orderly markets. See Rule 600(b)(5) of Regulation NMS.

<sup>15</sup> See Rule 600(b)(61) of Regulation NMS.

Exchange is proposing to not charge members for entering an MIDP Order that routes and executes at BX.

The Exchange is also proposing to assess the applicable charges and credits under Equity 7, Sections 114<sup>16</sup> and 118(a) to a member entering an MIDP Order that routes and executes at Nasdaq. Thus, a liquidity-removing MIDP Order on Nasdaq would be charged a fee based on the tier that the member qualifies for under the fee schedule of each of the Tapes for removing liquidity, and a liquidity-adding MIDP Order on Nasdaq would be provided a credit, depending on the tier that the member qualifies for under the fee schedule of each of the Tapes for providing liquidity. Last, the Exchange is proposing to assess the existing fee of 0.3% of the total transaction cost to a member with a MIDP Order in a security priced at less than \$1 that receives an execution.<sup>17</sup>

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>18</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>19</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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<sup>16</sup> Equity 7, Section 114 provides the Exchange's market quality incentive programs, which provide beneficial pricing in lieu of, or in addition to, the fees and credits provided under Equity 7, Section 118(a).

<sup>17</sup> See Equity 7, Section 118(b).

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(4) and (5).

The Exchange believes that its proposal is reasonable, equitable and not unfairly discriminatory because the pricing proposed above for MIDP Orders is generally set at levels that the Exchange is assessed for the execution of such orders at away venues. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess a \$0.0030 per share executed fee for securities in all three Tapes priced at \$1 or more per share to a member that enters an MIDP Order that routes and executes at venues with a protected quotation under Regulation NMS other than BX, or Nasdaq because, as an example, PHLX assesses a standard transaction charge of \$0.0030 per share executed to a member organization that enters an order in a security that it trades priced at \$1 or more per share that executes in Nasdaq PSX.<sup>20</sup> Similarly, CBOE BZX assesses a standard fee of \$0.0030 per share executed for orders that remove liquidity.<sup>21</sup>

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess a fee of \$0.0012 per share executed for securities in all three Tapes priced at \$1 or more per share to a member that enters an MIDP Order that routes and executes at venues ineligible for a protected quotation under Regulation NMS because the Exchange is assessed various fees for the execution of such orders at away venues and the proposed fee is reflective of the value provided by the Exchange in providing this functionality and the overall fees assessed by such venues.

The Exchange believes that assessing no charge for an MIDP Order that routes and executes at BX is reasonable, equitable and not unfairly discriminatory because it is reflective of the fee assessed the Exchange for the execution of such orders at BX, which

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<sup>20</sup> See PHLX Equity 7, Section 3.

<sup>21</sup> See Cboe BZX U.S. Equities Exchange Fee Schedule, available at [https://markets.cboe.com/us/equities/membership/fee\\_schedule/bzx/](https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/).



currently assesses no fee for an Order with Midpoint pegging that removes liquidity.<sup>22</sup> Similarly, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to apply the applicable charges as provided in Equity 7, Sections 114 and 118(a) to a member that enters an MIDP Order that routes and removes liquidity from Nasdaq because such fees are reflective of the fees that other similarly situated members would receive for execution of Orders on Nasdaq. For the same reason, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to apply the applicable credits as provided in Equity 7, Sections 114 and 118(a) to a member that enters an MIDP Order that routes and provides liquidity to Nasdaq.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess the proposed charge for MIDP Orders in any Tape securities priced below \$1 per share because it is consistent with what it currently charges for all orders in securities priced at less than \$1 per share that execute on Nasdaq or at an away venue.<sup>23</sup> Last, the Exchange believes that the proposed pricing changes are equitable and not unfairly discriminatory because they will apply uniformly to all members.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities

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<sup>22</sup> See BX Equity 7, Section 118(a).

<sup>23</sup> See Equity 7, Section 118(b).

available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed pricing for MIDP Orders are intended to recoup the Exchange's costs associated with providing routing services, which are wholly optional. As discussed above, the Exchange believes that its proposed pricing remains competitive with other equity exchanges, as they are reflective of the costs incurred by the Exchange in receiving executions of routed midpoint orders to the various venues. In addition, because the Exchange's routing services are the subject of competition, including price competition, from other exchanges and broker-dealers that offer routing services, as well as the ability of members to use their own routing capabilities, it is likely that the Exchange will lose market share as a result of the proposed fees if they are unattractive to market participants. In this regard, the Exchange notes that the proposed fees are similar to the RMPT and RMPL routing strategies of BYX and EDGA,<sup>24</sup> respectively, which may be used with a Mid-Point Peg Order to check the exchanges' respective Systems for available shares and any remaining shares are then sent to destinations on their routing tables that support midpoint eligible orders. Accordingly, the Exchange does not believe

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<sup>24</sup> See Cboe BYX U.S. Equities Exchange Fee Schedule (available at [https://markets.cboe.com/us/equities/membership/fee\\_schedule/byx/](https://markets.cboe.com/us/equities/membership/fee_schedule/byx/)) and Cboe EDGA U.S. Equities Exchange Fee Schedule (available at [https://markets.cboe.com/us/equities/membership/fee\\_schedule/edga/](https://markets.cboe.com/us/equities/membership/fee_schedule/edga/)).

that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>25</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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.

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.

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<sup>25</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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-2019-080)

September \_\_, 2019

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Fees for the MIDP Routing Option

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 September 18, 2019, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“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 adopt fees for the MIDP order routing option.

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.

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

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

<sup>2</sup> 17 CFR 240.19b-4.

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

The Exchange is proposing<sup>3</sup> to adopt fees for the MIDP order routing option.<sup>4</sup>

MIDP is an order routing<sup>5</sup> option under Rule 4758(a)(1)(A), which will allow members to seek midpoint liquidity on Nasdaq and other markets on the System routing table.<sup>6</sup>

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<sup>3</sup> The Exchange initially filed the proposed pricing changes on August 27, 2019 (SR-NASDAQ-2019-068). On September 9, 2019, the Exchange withdrew that filing and submitted a replacement filing (SR-NASDAQ-2019-076). On September 18, 2019, the exchange withdrew that filing and submitted this filing.

<sup>4</sup> See <http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2019-60>; see also Securities Exchange Act Release No. 86087 (June 11, 2019), 84 FR 28117 (June 17, 2019) (SR-NASDAQ-2019-050).

<sup>5</sup> Routing is an Order Attribute that allows a Participant to designate an Order to employ one of several Routing Strategies (also called "routing options") offered by Nasdaq, as described in Rule 4758; such an Order may be referred to as a "Routable Order." Upon receipt of an Order with the Routing Order Attribute, the System will process the Order in accordance with the applicable Routing Strategy. In the case of a limited number of Routing Strategies, the Order will be sent directly to other market centers for potential execution. For most other Routing Strategies, including MIDP, the Order will attempt to access liquidity available on Nasdaq in the manner specified for the underlying Order Type and will then be routed in accordance with the applicable Routing Strategy. Shares of the Order that cannot be executed are then returned to Nasdaq, where they will (i) again attempt to access liquidity available on Nasdaq and (ii) post to the Nasdaq Book or be cancelled, depending on the Time-in-Force of the Order. See Rule 4703(f).

<sup>6</sup> The term "System routing table" refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. Nasdaq reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. See Rule 4758(a)(1)(A).

Specifically, the MIDP order routing option may be assigned only to a Non-Displayed Order Type<sup>7</sup> with a Midpoint Pegging Order Attribute.<sup>8</sup> An Order with MIDP to buy (sell) will check the System for available shares and then the remaining shares are routed to destinations on the System routing table<sup>9</sup> that support midpoint eligible orders with a limit price that is at the lesser (greater) of: (1) the current NBO (NBB); or (2) the Order's entered limit price (if applicable).<sup>10</sup> If shares remain unexecuted after routing, the Order returns to Nasdaq and will check the System for available shares, with remaining shares posted on the Nasdaq Book<sup>11</sup> as a Non-Displayed Order with a Midpoint Pegging Order Attribute (unless an IOC).<sup>12</sup>

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<sup>7</sup> See Rule 4702(b)(3).

<sup>8</sup> Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer (the "Midpoint"). See Rule 4703(d).

<sup>9</sup> The Order is routed sequentially to the various venues on the System routing table in the full amount. An Order with MIDP and a Minimum Quantity Order Attribute will similarly route to the venues sequentially.

<sup>10</sup> If the entered limit price of a buy (sell) Order entered with MIDP is less (greater) than the current Midpoint price, the Order will not be routed but will instead be posted on the Nasdaq Book as a Midpoint Peg Order (if not an IOC). Once on the Nasdaq Book, if the NBBO moves and the Order's limit price is equal to the midpoint of the NBBO, the Order would not subsequently route. If the NBBO updates so that a resting Order with MIDP should be updated to a new midpoint price, it will be routed again and if shares remain unexecuted after routing, the Order will check the System for available shares with remaining shares reposted to the Nasdaq Book.

<sup>11</sup> See Rule 4701(a).

<sup>12</sup> An Order with the MIDP routing option will only be accepted with a Time-in-Force of Market Hours DAY or IOC and may not be flagged to participate in any of the Nasdaq Crosses. Unexecuted shares of an order with the MIDP routing option will check the System for available shares with remaining shares posted on the Nasdaq Book (unless an IOC Order) as a Non-Displayed Order with a Midpoint Pegging Order Attribute.

The Exchange is proposing to adopt fees under Equity 7, Section 118(a) for use of the MIDP order routing option. First, the Exchange is proposing to adopt a fee of \$0.0030 per share executed in securities of all three Tapes,<sup>13</sup> charged to a member entering an MIDP Order that routes and executes at venues with a protected quotation under Regulation NMS other than BX, or Nasdaq. Rule 600(b)(62) of Regulation NMS defines a protected quotation as a protected bid or a protected offer, which are defined as a quotation in an NMS stock that: (i) is displayed by an automated trading center;<sup>14</sup> (ii) is disseminated pursuant to an effective national market system plan; and (iii) is an automated quotation that is the best bid or best offer of a national securities exchange, the best bid or best offer of The Nasdaq Stock Market, Inc., or the best bid or best offer of a national securities association other than the best bid or best offer of The Nasdaq Stock Market, Inc.<sup>15</sup> The Exchange is proposing to adopt a \$0.0012 per share executed fee in

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<sup>13</sup> Securities listed on Nasdaq are Tape C securities, securities listed on NYSE are Tape A securities, and securities listed on exchanges other than Nasdaq and NYSE are Tape B securities (collectively, the “Tapes”).

<sup>14</sup> Trading center is defined as a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. See Rule 600(b)(82) of Regulation NMS. An automated trading center is a trading center that: (i) has implemented such systems, procedures, and rules as are necessary to render it capable of displaying quotations that meet the requirements for an automated quotation set forth in Rule 600(b)(4) of Regulation NMS; (ii) identifies all quotations other than automated quotations as manual quotations; (iii) immediately identifies its quotations as manual quotations whenever it has reason to believe that it is not capable of displaying automated quotations; and (iv) has adopted reasonable standards limiting when its quotations change from automated quotations to manual quotations, and vice versa, to specifically defined circumstances that promote fair and efficient access to its automated quotations and are consistent with the maintenance of fair and orderly markets. See Rule 600(b)(5) of Regulation NMS.

<sup>15</sup> See Rule 600(b)(61) of Regulation NMS.



securities of all three Tapes, charged to a member entering an MIDP Order that routes and executes at venues ineligible for a protected quotation under Regulation NMS. The Exchange is proposing to not charge members for entering an MIDP Order that routes and executes at BX.

The Exchange is also proposing to assess the applicable charges and credits under Equity 7, Sections 114<sup>16</sup> and 118(a) to a member entering an MIDP Order that routes and executes at Nasdaq. Thus, a liquidity-removing MIDP Order on Nasdaq would be charged a fee based on the tier that the member qualifies for under the fee schedule of each of the Tapes for removing liquidity, and a liquidity-adding MIDP Order on Nasdaq would be provided a credit, depending on the tier that the member qualifies for under the fee schedule of each of the Tapes for providing liquidity. Last, the Exchange is proposing to assess the existing fee of 0.3% of the total transaction cost to a member with a MIDP Order in a security priced at less than \$1 that receives an execution.<sup>17</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>18</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>19</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and

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<sup>16</sup> Equity 7, Section 114 provides the Exchange's market quality incentive programs, which provide beneficial pricing in lieu of, or in addition to, the fees and credits provided under Equity 7, Section 118(a).

<sup>17</sup> See Equity 7, Section 118(b).

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(4) and (5).

other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that its proposal is reasonable, equitable and not unfairly discriminatory because the pricing proposed above for MIDP Orders is generally set at levels that the Exchange is assessed for the execution of such orders at away venues. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess a \$0.0030 per share executed fee for securities in all three Tapes priced at \$1 or more per share to a member that enters an MIDP Order that routes and executes at venues with a protected quotation under Regulation NMS other than BX, or Nasdaq because, as an example, PHLX assesses a standard transaction charge of \$0.0030 per share executed to a member organization that enters an order in a security that it trades priced at \$1 or more per share that executes in Nasdaq PSX.<sup>20</sup> Similarly, CBOE BZX assesses a standard fee of \$0.0030 per share executed for orders that remove liquidity.<sup>21</sup>

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess a fee of \$0.0012 per share executed for securities in all three Tapes priced at \$1 or more per share to a member that enters an MIDP Order that routes and executes at venues ineligible for a protected quotation under Regulation NMS because the Exchange is assessed various fees for the execution of such orders at away venues and the proposed fee is reflective of the value provided by the Exchange in providing this functionality and the overall fees assessed by such venues.

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<sup>20</sup> See PHLX Equity 7, Section 3.

<sup>21</sup> See Cboe BZX U.S. Equities Exchange Fee Schedule, available at [https://markets.cboe.com/us/equities/membership/fee\\_schedule/bzx/](https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/).

The Exchange believes that assessing no charge for an MIDP Order that routes and executes at BX is reasonable, equitable and not unfairly discriminatory because it is reflective of the fee assessed the Exchange for the execution of such orders at BX, which currently assesses no fee for an Order with Midpoint pegging that removes liquidity.<sup>22</sup> Similarly, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to apply the applicable charges as provided in Equity 7, Sections 114 and 118(a) to a member that enters an MIDP Order that routes and removes liquidity from Nasdaq because such fees are reflective of the fees that other similarly situated members would receive for execution of Orders on Nasdaq. For the same reason, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to apply the applicable credits as provided in Equity 7, Sections 114 and 118(a) to a member that enters an MIDP Order that routes and provides liquidity to Nasdaq.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess the proposed charge for MIDP Orders in any Tape securities priced below \$1 per share because it is consistent with what it currently charges for all orders in securities priced at less than \$1 per share that execute on Nasdaq or at an away venue.<sup>23</sup> Last, the Exchange believes that the proposed pricing changes are equitable and not unfairly discriminatory because they will apply uniformly to all members.

**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

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<sup>22</sup> See BX Equity 7, Section 118(a).

<sup>23</sup> See Equity 7, Section 118(b).

Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed pricing for MIDP Orders are intended to recoup the Exchange's costs associated with providing routing services, which are wholly optional. As discussed above, the Exchange believes that its proposed pricing remains competitive with other equity exchanges, as they are reflective of the costs incurred by the Exchange in receiving executions of routed midpoint orders to the various venues. In addition, because the Exchange's routing services are the subject of competition, including price competition, from other exchanges and broker-dealers that offer routing services, as well as the ability of members to use their own routing capabilities, it is likely that the Exchange will lose market share as a result of the proposed fees if they are unattractive to market participants. In this regard, the Exchange notes that the proposed fees are similar to the RMPT and RMPL routing strategies of BYX and EDGA,<sup>24</sup> respectively, which

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<sup>24</sup> See Cboe BYX U.S. Equities Exchange Fee Schedule (available at [https://markets.cboe.com/us/equities/membership/fee\\_schedule/byx/](https://markets.cboe.com/us/equities/membership/fee_schedule/byx/)) and Cboe

may be used with a Mid-Point Peg Order to check the exchanges' respective Systems for available shares and any remaining shares are then sent to destinations on their routing tables that support midpoint eligible orders. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>25</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

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EDGA U.S. Equities Exchange Fee Schedule (available at [https://markets.cboe.com/us/equities/membership/fee\\_schedule/edga/](https://markets.cboe.com/us/equities/membership/fee_schedule/edga/)).

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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-2019-080 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-2019-080. 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-2019-080 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>26</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>26</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

New text is underlined.

**The Nasdaq Stock Market LLC Rules**

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**EQUITY RULES**

\* \* \* \* \*

**Equity 7 Pricing Schedule**

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**Section 118. Nasdaq Market Center Order Execution and Routing**

(a) The following charges shall apply to the use of the order execution and routing services of the Nasdaq Market Center by members for all securities priced at \$1 or more that it trades. For purposes of determining a member's shares of liquidity routed, TFTY, MOPB, MOPP, SAVE, SOLV, CART, QDRK, QCST and directed orders are not counted. As used in this section, the term "Consolidated Volume" shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

**(1) Fees for Execution and Routing of Orders in Nasdaq-Listed Securities**

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<u>Charge to member entering an MIDP Order that routes and executes at venues with a protected quotation under Regulation NMS other than BX, or Nasdaq:</u>	<u>\$0.0030 per share executed</u>
<u>Charge to member entering an MIDP Order that routes and executes at venues ineligible for a protected quotation under Regulation NMS:</u>	<u>\$0.0012 per share executed</u>
<u>Charge to member entering an MIDP Order that routes and executes at BX:</u>	<u>No charge</u>
<u>Charge to member entering an MIDP Order that routes and removes liquidity from Nasdaq:</u>	<u>Applicable charges as provided in Equity 7, Sections 114 and 118(a)</u>
<u>Credit to member entering an MIDP Order that routes and provides liquidity to Nasdaq:</u>	<u>Applicable credits as provided in Equity 7, Sections 114 and 118(a)</u>



**(2) Fees for Execution and Routing of Securities Listed on NYSE**

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Charge to member entering an MIDP Order that routes and executes at venues with a protected quotation under Regulation NMS other than BX, or Nasdaq: \$0.0030 per share executed

Charge to member entering an MIDP Order that routes and executes at venues ineligible for a protected quotation under Regulation NMS: \$0.0012 per share executed

Charge to member entering an MIDP Order that routes and executes at BX: No charge

Charge to member entering an MIDP Order that routes and removes liquidity from Nasdaq: Applicable charges as provided in Equity 7, Sections 114 and 118(a)

Credit to member entering an MIDP Order that routes and provides liquidity to Nasdaq: Applicable credits as provided in Equity 7, Sections 114 and 118(a)

**(3) Fees for Execution and Routing of Orders in Securities Listed on Exchanges other than Nasdaq and NYSE (“Tape B Securities”)**

\* \* \* \* \*

Charge to member entering an MIDP Order that routes and executes at venues with a protected quotation under Regulation NMS other than BX, or Nasdaq: \$0.0030 per share executed

Charge to member entering an MIDP Order that routes and executes at venues ineligible for a protected quotation under Regulation NMS: \$0.0012 per share executed

Charge to member entering an MIDP Order that routes and executes at BX: No charge

Charge to member entering an MIDP Order that routes and removes liquidity from Nasdaq: Applicable charges as provided in Equity 7, Sections 114 and 118(a)

Credit to member entering an MIDP Order that routes and provides liquidity to Nasdaq: Applicable credits as provided in Equity 7, Sections 114 and 118(a)

**(b) – (m)** No change.

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