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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77066; File No. SR-NASDAQ-2016-008)

February 5, 2016

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change to Amend Rule 4120

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 29, 2016, The NASDAQ Stock Market LLC (“Nasdaq” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II 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 the Substance of the Proposed Rule Change

Nasdaq is proposing to amend Rule 4120 and the Nasdaq process for commencing trading of a security that is the subject of Nasdaq and non-Nasdaq-listed initial public offerings (“IPOs”) and trading halts.

The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com/>, at the Exchange’s principal office, 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 received on the proposed rule change. The text of these statements may be examined at the places specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 is proposing to make a minor modification to the Nasdaq process for commencing trading of a security that is the subject of Nasdaq and non-Nasdaq-listed IPOs or trading halts. Specifically, the Exchange is proposing to modify the way in which orders are accepted prior to the commencement of trading for securities subject to trading halt or IPO. This small change will simplify the order submission operations for market participants during trading halts and IPOs.

Currently, Nasdaq Rule 4120(c)(4)(B) provides that during any trading halt or pause for which a halt cross under Rule 4753 will not occur, market participants may enter orders during the trading halt or pause and designate such orders to be held until the termination of the trading halt or pause. Under this rule, such orders will be held in a suspended state until the termination of the halt or pause, at which time they will be entered into the system.

Nasdaq Rules 4120(a)(1), (4), (5), (6), (9), (10), (11), and (12)(F) provide specific instances when the Exchange may halt trading of a security listed on Nasdaq. Nasdaq Rule 4120(c)(7)(A) establishes the process for lifting the halt and commencing trading. It provides that a trading halt or pause initiated under the rules listed above is terminated by the Exchange once it releases the security for trading. For any such security listed on the Exchange, prior to terminating the halt or pause, there will be a 5-minute "Display Only Period" during which market participants may enter quotations and orders in that security in Nasdaq systems.

Additionally, when a trading halt is in effect prior to the commencement of the Display Only Period, market participants may enter orders in a security that is the subject of the trading halt on the Exchange and designate such orders to be held until the beginning of the Display Only Period. Such orders will be held in a suspended state until the beginning of the Display Only Period, at which time they will be entered into the system.

Nasdaq Rule 4120(a)(7) provides that the Exchange may halt trading in a security that is the subject of an IPO on Nasdaq. Nasdaq Rule 4120(c)(8)(A) establishes the process for lifting the halt and commencing trading. Under this rule, prior to terminating the halt, there is a 15-minute Display-Only Period during which market participants may enter quotes and orders into the Nasdaq Market Center. Additionally, beginning at 4:00 a.m. (EST), market participants may enter orders in a security that is the subject of an IPO on the Exchange and designate such orders to be held until the beginning of the Display Only Period. Such orders will be held in a suspended state until the beginning of the Display Only Period, at which time they will be entered into the system. At the conclusion of the Display-Only Period, the security will enter a “Pre-Launch Period” of indeterminate duration. The Pre-Launch Period ends and the security is released for trading by the Exchange once the conditions described in paragraphs (c)(8)(A)(i), (ii), and (iii) of Nasdaq Rule 4120 are all met.

The process of holding orders in a suspended state prior to the commencement of the Display Only Period is functionality that is utilized by just a small portion of orders. The Exchange believes that the proposed rule change will simplify this process for market participants by making it easier for them to enter orders prior to the release of an IPO or halted security for trading on the Exchange.

The proposed rule change is to amend Nasdaq Rule 4120(c)(4)(B), Nasdaq Rule 4120(c)(7)(A), and Nasdaq Rule 4120(c)(8)(A) pertaining to the Nasdaq process for commencing trading of a security that is subject to Nasdaq and non-Nasdaq-listed IPOs and trading halts.

For Nasdaq-listed securities, Nasdaq proposes amending Nasdaq Rule 4120(c)(7)(A) and (c)(8)(A). Nasdaq Rule 4120(c)(8)(A) functionality was added in 2012 to make it easier for firms to enter orders during halts or IPOs for Nasdaq-listed securities, without regard for the security being in a Display Only Period or having resumed trading.³ The process required special settings on participant ports and, as mentioned above, the orders are held in a suspended state. With this change, orders for Nasdaq-listed securities will be immediately accepted and entered into the system without any special port settings and will no longer be held in a suspended state. Such orders will be eligible for cross execution and will remain on the book after the auction if the order's Time in Force allows.⁴ As mentioned above, this simplification will streamline the process and make it easier for firms to submit orders to the Exchange prior to the commencement of trading in an IPO or halted security.

For non-Nasdaq-listed securities, the functionality will revert back to what had been done previously, which is that the Exchange will not accept any order entered during a trading halt prior to its release on the primary market.⁵ Nasdaq notes that this will reduce confusion about

³ See Securities Exchange Act Release No. 66652 (March 23, 2012), 77 FR 19044 (March 29, 2012) (SR-NASDAQ-2012-038); see also Securities Exchange Act Release No. 69563 (May 13, 2013), 78 FR 29187 (May 17, 2013) (SR-NASDAQ-2013-073). Both filings were designated by the Exchange and accepted by the Commission as filings submitted under Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

⁴ Certain orders' Time in Force allows the order to remain on the Exchange book after the auction (See e.g., MDAY, MGTC, SDAY and SGTC in Nasdaq Rule 4703(a)).

⁵ Any order subject to instructions that it be directed to another exchange as described in Nasdaq Rule 4758 will be forwarded to the exchange as per the member's instructions.

where to send orders for IPO or halt auctions. Market participants that want to participate in the IPO auction or halt resumption for non-Nasdaq-listed securities may use Nasdaq routing strategies that submit orders to the primary listing exchange for auctions or submit their orders directly to the primary listing exchange. The Exchange proposes that Nasdaq Rule 4120(c)(4)(B) be revised to simply state that during any trading halt or pause for which a halt cross under Rule 4753 will not occur, which would be the case for a security not listed on Nasdaq that is subject to a halt or pause, Nasdaq will not accept orders entered by market participants during the trading halt or pause.

Both the changes for non-Nasdaq-listed securities and for Nasdaq-listed securities will clarify references to instances where a trading halt is in effect prior to the commencement of the Display Only Period and that market participants may enter orders in a security that is the subject of the trading halt on the Exchange. Specifically, for both Nasdaq Rule 4120(c)(7)(A) and (c)(8)(A), the subsections will be amended by deleting language referencing that orders will be held until the beginning of the Display Only Period. Nasdaq Rule 4120(c)(7)(A) will be amended further by deleting language referencing that orders will be held in a suspended state until the beginning of the Display Only Period. For both subsections, this language will be replaced with language that states such orders will now be accepted and entered into the system.

The Exchange has also notified FINRA of the proposed rule change and that Nasdaq would treat the quotes collected during the halt in the same manner that the Exchange handles the pre-existing quotes (i.e., by disseminating these quotes in a non-tradable state where they are clearly identified as being closed and are in fact non-actionable). As a result, the Exchange

believes that the proposed rule change would not violate Nasdaq Rule 3340⁶ or the similar FINRA Rule 5260.⁷

The implementation of the existing functionality for accepting orders prior to the commencement of the Display Only Period has not been widely used and the Exchange believes the proposed rule change will both improve and simplify the Nasdaq process for market participants.⁸ The Exchange will issue an Equity Trader Alert notifying Exchange member firms of the changes.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁹ in general, and with Section 6(b)(5) of the Act,¹⁰ in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

Nasdaq believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system through an improved and

⁶ See Nasdaq Rule 3340. Prohibition on Transactions, Publication of Quotations, or Publication of Indications of Interest During Trading Halts.

⁷ See FINRA Rule 5260. Prohibition on Transactions, Publication of Quotations, or Publication of Indications of Interest During Trading Halts.

⁸ The New York Stock Exchange LLC (“NYSE”) may accept orders at any time prior to an IPO for NYSE-listed and NYSE MKT LLC-listed securities. See https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Opening_and_Closing_Auctions_Fact_Sheet.pdf.

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(5).

simplified Nasdaq process for commencing trading of a security that is the subject of Nasdaq and non-Nasdaq-listed IPOs and trading halts

The current functionality for accepting orders prior to the commencement of the Display Only Period is used infrequently and consequently the proposed rule change will have little impact on customers. To the extent that there is any impact, it will be that accepting orders immediately rather than holding them in a suspended state will clarify the state of participant orders, which will reduce confusion for market participants in times of increased activity such as during a halt or IPO. This simpler Nasdaq process will make it easier for market participants by streamlining the process for entering orders in securities subject to an IPO or halt prior to the commencement of the Display Only Period. Additionally, returning to the functionality of not accepting orders prior to the resumption of trading that was previously in place for non-Nasdaq-listed securities prior to 2013,¹¹ will reduce confusion for market participants about where to send orders for IPO or halt auctions. Orders sent to Nasdaq will not be accepted unless they are designated to use one of the routing options that may be sent to the primary listing market.¹²

The proposed rule change also will remove impediments to and perfect the mechanism of a free and open market through competition. Specifically, the proposed rule change will enhance competition by increasing Nasdaq's attractiveness as a venue for trading securities and as a primary listing exchange for securities issuers.

¹¹ See Securities Exchange Act Release No. 66652 (March 23, 2012), 77 FR 19044 (March 29, 2012) (SR-NASDAQ-2012-038); see also Securities Exchange Act Release No. 69563 (May 13, 2013), 78 FR 29187 (May 17, 2013) (SR-NASDAQ-2013-073).

¹² For example, the LIST routing option sends orders in non-Nasdaq-listed securities to the primary listing exchange for auctions – open, close, IPOs, halts, pauses, etc. See Nasdaq Rule 4758(a)(1)(A)(x).

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Nasdaq believes that the proposed rule change will result in an improved and simplified process for market participants, which in turn will reduce confusion during important market events. Nasdaq believes that this change will enhance competition by increasing its attractiveness as a venue for trading securities.

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

Written comments were neither solicited nor received.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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:

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-2016-008 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-2016-008. 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 website (<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 will also 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-2016-008, 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.¹³

Brent J. Fields,
Secretary.

¹³ 17 CFR 200.30-3(a)(12).

