When the Exchange migrates to the same technology as that of the other Cboe Affiliated Exchanges, Users of the Exchange will have access to similar functionality on all Cboe Affiliated Exchanges. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange reiterates that the proposed rule change is being proposed in the context of the technology integration of the Cboe Affiliated Exchanges. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the Exchange believes the proposed rule change will benefit Exchange participants in that it will provide a consistent technology offering for Users by the Cboe Affiliated Exchanges.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The general framework and primary features of the Exchange's complex order functionality is not changing, and will continue to protect orders, including Priority Customer orders, resting in the Book. Therefore, the electronic processing of complex orders will occur in a substantially similar manner as it does today. The System's electronic processing of complex orders of all Users will apply in the same manner. Use of complex order functionality and the various complex order instructions will continue to be voluntary and within the discretion of Users.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the basis for the majority of the proposed rule changes in this filing are based on C2 Rule 6.13 and EDGX Options Rule 21.20, and thus have previously been filed with the Commission.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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) of the Act [98] and Rule 19b–4(f)(6) [99] thereunder. 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 will institute proceedings to determine whether the proposed rule change 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:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–060 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–CBOE–2019–060. This file number should be included on the subject line if email 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 also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–060 and should be submitted on or before October 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[100]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–20711 Filed 9–24–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87031; File No. SR–NASDAQ–2019–073]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Concerning the Operation of the Nasdaq Opening, Halt and Closing Crosses

September 19, 2019.

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 5, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'')

[98] 15 U.S.C. 78s(b)(3)(A).

[99] 17 CFR 240.19b–4(f)(6).

[100] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Substance of the Proposed Rule Change

The Exchange proposes to clarify its rules concerning the operation of the Nasdaq Opening, Halt and Closing Crosses, and to make certain corrective changes to Rules 4702, 4703, 4752, 4753, 4754, and 4763.

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 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 to amend Rules 4752, 4753 and 4754, concerning the operation of the Nasdaq Opening, Halt and Closing Crosses, respectively, to make them more efficient, and to make corrective and clarifying changes. The Exchange is also making a related change to Rule 4763(e)(2) concerning the repricing of short sale Orders that are Limit-on-Open (''LOO''),[3] Market-on-Open (''MOO''),[4] Limit-on-Close (''LOC''),[5] or Market-on-Close (''MOC'').[6] Last, the Exchange is making corrective changes to Rules 4702(b) and 4703(l).

New Rules 4752(d)(2)(G), 4753(b)(2)(E) and 4754(b)(2)(F)

Rules 4752(d)(2), 4753(b)(2) and 4754(b)(2) describe the steps followed in establishing the prices in the Nasdaq Opening, Halt and Closing Crosses, respectively. A Post-Only Order is an Order Type designed to have its price adjusted as needed to post to the Nasdaq Book in compliance with Rule 610(d) under Regulation NMS by avoiding the display of quotations that lock or cross any Protected Quotation[7] in a System Security[8] during Market Hours,[9] or to execute against locking or crossing quotations in circumstances where economically beneficial to the Participant[10] entering the Post-Only Order.[11] A Post-Only Order may participate in the Nasdaq Opening Cross, Nasdaq Halt Cross and/or the Nasdaq Closing Cross.[12]

The Exchange is adopting new rule text under Rules 4752(d)(2)(G), 4753(b)(2)(E) and 4754(b)(2)(F) that describes how the Exchange prices the Nasdaq Opening, Halt and Closing Crosses when the Cross would otherwise be priced by a partial execution of an Order deemed to have a price at one minimum increment away from a Post-Only Order pursuant to Rule 4703(l). Rule 4703(l) describes the Order Attribute that allows an Order to participate in the Nasdaq Opening, Halt or Closing Crosses,[13] including the process for pricing an Order that is locked or crossed at its non-displayed price by a Post-Only Order. Specifically, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book shall be deemed to have a price at one minimum price increment[14] below (above) the price of the Post-Only Order for the purposes of the Cross price calculation.

Currently, if the Opening, Halt[15] or Closing Cross would otherwise occur at the ''deemed price'' of an Order that is locked or crossed at its non-displayed price by a Post-Only Order pursuant to Rule 4703(l), and that Order would not execute in full during the Cross, then Cross price is instead adjusted to the price of the Order's original ranked price. The new rule text clarifies the current approach to setting the Cross price in situations where there is a partial execution of an Order that is deemed to have a price at one minimum price increment away from a Post-Only Order. Consider an example where the NBBO is $10.00 × $10.01 and resting on the Nasdaq book are Order #1, a MOC Order to buy 500 shares, Order #2, a MOC Order to sell 300 shares, Order #3, a Non-Displayed Order to sell 100 shares at $10.01, and Order #4 a Non-Displayed Order to sell 300 shares at $10.00. If Order #4 is subsequently locked by Order #5, a Post-Only Order to buy 100 shares at $10.00, then for purposes of the Cross price calculation, Order #4 would be deemed to have a price of $10.01, where it is presented for execution ahead of Order #3, reflecting its price priority on the Nasdaq book.[16] Per Nasdaq's Cross calculation language,[17] $10.01 would be selected as the Cross price as it maximizes paired shares (*i.e.,* Orders #1 and #2 are executed in full and Order #4 is executed partially). But because Order #4 would not execute in full at this price, the Cross price is instead adjusted to $10.00. The Cross would execute 500 shares at a price of $10.00, with Order #1 and Order #2 receiving full executions, and Order #4 receiving a partial execution of 200 shares.

This approach to setting the Cross price is consistent with Nasdaq Cross price tiebreaker rules regarding unexecuted shares[18] and ensures that

[3] *See* Rule 4752(a)(3).

[4] *See* Rule 4752(a)(4).

[5] *See* Rule 4754(a)(4).

[6] *See* Rule 4754(a)(5).

[7] *See* Rule 4701(j).

[8] *See* Rule 4701(b).

[9] *See* Rule 4701(g).

[10] *See* Rule 4701(c).

[11] *See* Rule 4702(b)(4).

[12] *See* Rule 4702(b)(4)(C). The Exchange is proposing to eliminate text from the rule that states that only Post-Only Orders entered through OUCH and FLITE protocols may participate in the Nasdaq Opening and/or Closing Crosses. This rule text was mistakenly adopted when amendments were made to the rule. *See* Securities Exchange Act Release No. 75252 (June 22, 2015), 80 FR 36865 (June 26, 2015) (SR–NASDAQ–2015–024). Any of the Order entry protocols may be used to enter Post-Only Orders eligible to participate in the Nasdaq Opening and/or Closing Crosses.

[13] The Exchange is proposing to correct Rule 4703(l) by including the Nasdaq Halt Cross in the rule. As described in the proposal, the Nasdaq Halt Cross was erroneously omitted from the rule.

[14] *See* Rule 4701(k).

[15] *See supra* note 13.

[16] Order #4 has price priority over Order #3 because Order #3[sic] is deemed to be $10.01 for purposes of the Cross price calculation, but for purposes of execution priority it is ranked behind all orders priced at $10.

[17] *See* Rules 4752(d)(2)(A), 4753(b)(2)(A), and 4754(b)(2)(A).

[18] Rule 4754(b)(2)(C) concerns the tiebreaker criteria for selecting the Closing Cross price when paired shares are maximized and imbalance is minimized: ''shall occur at the entered price at which shares will remain unexecuted in the cross.'' Had Nasdaq selected a Cross price of $10.01, the participant behind Order #4 would perceive that its Order was traded through or was otherwise not represented in the Cross, which is inconsistent with the purpose of the tiebreaker language (*i.e.,* the Cross price is $10.01, but the shares remaining in the cross are priced is $10.00). The Order Imbalance Indicator provides the current state of interest in designated for participation in the Closing Cross, including the adjusted price of the Cross. *See* Rule

the original ranked price of the Order is reflected, since the remaining unexecuted shares of the Order are ranked in time priority behind all orders at the price at which the Order was posted on the Nasdaq Book and no other interest ranked at a less aggressive price would execute in the Cross.[19] Pricing such an Order to its original ranked price is consistent with the participant's expectations and the pricing of Nasdaq Crosses,[20] since the participant would otherwise perceive that its Order was traded through or not represented in the Cross. In the example above, a participant would not expect to receive an execution in the cross at $10.01, while leaving unexecuted shares of its sell Order on the Nasdaq Book at a more aggressive price of 10.00.

Changes to Rule 4763(e)(2)

Rule 4763 provides the Exchange's rules concerning the Short Sale Price Test of Rule 201 of Regulation SHO. If the Short Sale Price Test is triggered, paragraph (e) of Rule 4763 provides the process for re-pricing of Orders during the Short Sale Period, when the Short Sale Price Test is in effect. Rule 4703(l) states that, for purposes of the Nasdaq Opening or Closing Cross,[21] an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book shall be deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order.

Currently, short sale LOO, MOO, LOC and MOC Orders are re-priced during the Short Sale Period to the Permitted Price, unless the NBBO spread is $.01 in which case such orders will be priced to the midpoint. As a consequence of the Cross price adjustment explained above, in rare cases short sale LOO, MOO, LOC and MOC Orders re-priced to the midpoint would be required for completion of the Nasdaq Opening and Closing Crosses but would not be able to execute at the Cross price due to the Short Sale Price Test, notwithstanding the fact that it had been already adjusted to the midpoint (*i.e.,* the short sale LOO, MOO, LOC and MOC Orders included in the price calculation but would not be executable at the Cross price). This would occur if, in a security subject to the Short Sale Price Test and a NBBO one minimum price increment wide, the Cross price would be adjusted to the National Best Bid due to the partial execution of a sell Order deemed to have a price at the National Best Offer pursuant to Rule 4703(l). Consider the same example given previously with two changes: The security is subject to a Short Sale Price Test, and Order #2 is now a MOC to sell short. Under the current rule, Order #2 would be repriced to $10.005, a Cross price of $10.01 would be selected, and, because Order #4 would receive a partial execution in the cross, the cross price would be adjusted to $10.00. The Cross would attempt to execute Order #1, Order #2, and Order #4 as in above, but because of the Short Sale Price Test, $10.00 is an impermissible execution price for Order #2, notwithstanding the fact that it had been already adjusted to the midpoint.[22]

To resolve this issue, Nasdaq is proposing to amend Rule 4763(e)(2) to add a condition stating that the re-pricing of short sale LOO, MOO, LOC and MOC Orders to the midpoint in lieu of the Permitted Price will not occur when a resting non-displayed Order is deemed to have a price at one minimum increment away from a Post-Only Order pursuant to Rule 4703(l), at the time of the Nasdaq Opening Cross or the Nasdaq Closing Cross. This change will prevent short sale LOO, MOO, LOC and MOC Orders subject to the Short Sale Price Test from being presented for execution at an ineligible price when the Nasdaq Opening and Closing Cross price is adjusted pursuant to proposed Rules 4752(d)(2)(G), 4753(b)(2)(E) and 4754(b)(2)(F). Thus under the proposed rule, if at the time of the Nasdaq Opening Cross or the Nasdaq Closing Cross the Short Sale Price Test is in effect and there is a resting non-displayed Order deemed to have a price at one minimum increment away from a Post-Only Order, pursuant to Rule 4703(l), short sale Orders that are LOO, MOO, LOC, or MOC will be re-priced to the Permitted Price instead of the midpoint. Re-pricing of short sale Orders in this manner ensures they are ranked behind [23] such non-displayed Orders, thereby preventing the inclusion of ineligible short sale Orders in the event the Cross price is adjusted,[24] or in some cases, preventing the adjustment from occurring at all.[25] Using the example above, at the time of the Closing Cross, Order #2 would be repriced to the Permitted Price of $10.01 instead of the midpoint, where it is now ranked behind Order #4 in execution priority.[26] As a result of this reordering, Order #4 would now receive a full execution, preventing the Cross price adjustment clause that would occur with a partial execution. The Cross would be priced at $10.01, and the System would execute Order #1 in full for 500 shares, Order #4 in full for 300 shares, and Order #2 for 200 shares.

The Exchange notes that this change in no way allows for execution of a short sale Order subject to the Short Sale Price Test at an impermissible price. Moreover, pricing such an Order to the Permitted Price is consistent with the participant's expectations of short sale executability and the pricing of Nasdaq Crosses, since the participant would not expect its short sale Orders to participate in the Cross if the Cross were to be priced to the National Best Bid during the Short Sale Price Test.

Last, the Exchange is correcting a citation in the rule concerning the description of the Pegging Order Attribute, which was in former Rule 4751(f)(4) but was moved to Rule 4703(d).[27]

Changes to Rules 4752(d)(3)(B), 4753(b)(3) and 4754(b)(3)(B)

The Exchange is proposing to make a corrective change to Rules 4752(d)(3)(B), 4753(b)(3) and 4754(b)(3)(B), which provide the processes followed when the Nasdaq Cross price is selected and fewer than all shares of Cross eligible Orders that are available in the Nasdaq Market Center would be executed. In 2017, the Exchange clarified Rules 4752, 4753 and 4754 to specify the execution priority of an Order that has been locked or crossed at its non-displayed price by a Post-Only Order and re-priced for

4754(a)(7)(A). Thus, adjustment of the Closing Cross price is reflected in the Order Imbalance Indicator.

[19] This occurs because the Order is meant to cede priority to all other Orders at its original price, but retain priority over all Orders at a less aggressive price.

[20] *See supra* note 18.

[21] Rule 4703(l) concerns the Order Attribute that permits an Order to participate in the Nasdaq Crosses. As described below, the rule currently only discusses the Nasdaq Opening and Closing Crosses, however, the rule should also include the Nasdaq Halt Cross. The Exchange is proposing to correct Rule 4703(l) and to make related changes to Order Types under Rule 4702(b).

[22] Although Order #2 has been converted to an Order with a midpoint pegging attribute, the System nevertheless attempts to execute Order #2 ahead of Order #4 because it remains a MOC Order.

[23] The Exchange notes that, although this proposal changes the ranking of short sale LOO, MOO, LOC and MOC Orders so that such Orders lose priority as described herein, these Orders are not disadvantaged in so doing because they would not execute at their original ranked price.

[24] Adjusting the price of these Orders would result in the short sale LOO, MOO, LOC and MOC Orders to not be included in the Cross price calculation.

[25] The adjustment will not occur at all because either the non-displayed Order executed in full, or the non-displayed Order executed in full and the short sale Order received a partial execution.

[26] Even though Order #2 is technically a MOC Order, it will be ranked behind Order #4 because it is no longer treated as a MOC Order but rather it is prioritized at the repriced price level.

[27] *See* Securities Exchange Act Release No. 75252 (June 22, 2015), 80 FR 36865 (June 26, 2015) (SR–NASDAQ–2015–024).

purposes of the Opening, Halt and Closing Crosses.[28] In making the clarifying changes, the Exchange amended Rules 4752(d)(3)(B), 4753(b)(3) and 4754(b)(3)(B) to add the following text: [29] ''An Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book, and which has been deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order, shall be ranked in time priority ahead of all orders one minimum price increment below (above) the price of the Post-Only Order but behind all orders at the price at which the Order was posted to the Nasdaq Book.'' [30] The text stating ''ahead of all orders one minimum price increment below (above) the price of the Post-Only Order'' is incorrect with respect to Orders covered by the Cross rules,[31] specifically midpoint Orders when the NBBO is one minimum price increment wide. In these cases, an Order to buy (sell) that is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book, and which has been deemed to have a price at one minimum price increment below (above) the price of the Post-Only Order, is ranked in time priority behind all Orders at the price at which the Order was posted to the Nasdaq Book, without regard to all Orders that are one minimum price increment below (above) the price of the Post-Only Order. This is because the Order is meant to cede priority to all other Orders at its original price, but retains priority over all Orders at a less aggressive price. For example, consider a scenario in which the NBBO is $10.00 × $10.01 and resting on the Nasdaq Book are Order #1, a midpoint Order to sell at $10.005, and Order #2, a non-displayed Order to sell at $10.00. If Order #2 were to be subsequently locked at $10.00 by a Post Only Order to buy, then Order #2 would be deemed to have a price of $10.01 for the purposes of the Cross price calculation. However, if a cross price of $10.005 was selected, Order #2 would be presented for execution at its ranked price of $10.00—not at its deemed price of $10.01—ahead of the midpoint order ranked $10.005. Accordingly, the Exchange is deleting the inaccurate text from Rules 4752(d)(3)(B), 4753(b)(3) and 4754(b)(3)(B), which states that the locked or crossed Order would be ranked in time priority ahead of all orders one minimum price increment below (above) the price of the Post-Only Order but behind all orders at the price at which the Order was posted to the Nasdaq Book.

Changes to Rules 4702(b) and 4703(l)

As noted above, Rule 4703(l) concerns the Order Attribute that permits an Order to participate in the Nasdaq Crosses. Currently, the rule only discusses the Nasdaq Opening and Closing Crosses. This was an omission occurring when the Exchange adopted the rule in 2015.[32] Any resting Order on the Nasdaq Book that may participate in the Nasdaq Opening and Closing Crosses may also participate in a Nasdaq Halt Cross.[33] Accordingly, the Exchange is proposing to correct Rule 4703(l) by including the Nasdaq Halt Cross in the rule. The Exchange is proposing to make related changes to affected Order Types under Rule 4702(b) to now include participation in the Nasdaq Halt Cross as an Order Attribute. Last, the Exchange is amending Rule 4702(b)(4)(C) to correct text in the rule that currently states that the Post-Only Order may only participate in the Nasdaq Opening and Closing Crosses only if it is entered through an OUCH or FLITE port. The Exchange has never limited participation of Post-Only Orders in the Nasdaq Opening and Closing Crosses if they are entered through OUCH or FLITE ports

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[34] in general, and furthers the objectives of Section 6(b)(5) of the Act,[35] 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 making the Nasdaq Crosses operate more efficiently by preventing the inclusion of short sale Orders that would be unable to execute in a Nasdaq Cross, due to the Cross price selected. Moreover, new Rules 4752(d)(2)(G), 4753(b)(2)(E) and 4754(b)(2)(F) address how the Exchange sets the Nasdaq Opening, Halt and Closing Cross prices when there is a partial execution of an Order that is deemed to have a price at one minimum price increment away from a Post-Only Order, which is consistent with the Act because it ensures that the original ranked price of the Order is reflected. As noted above, the remaining unexecuted shares of the Order is ranked in time priority behind all Orders at the price at which the Order was posted on the Nasdaq Book and no other interest would execute at a less aggressive price. Thus, the new rule text allowing pricing such an Order to its original ranked price is consistent with Nasdaq Cross price tiebreaker rules regarding unexecuted shares, as well as the participant's expectations concerning execution in the Cross, since the participant would otherwise receive an execution at what would appear to be a partial execution of their Order at a price inferior to the Cross price. As noted above, such an execution would appear to the participant as though its Order was traded through or was otherwise not represented in the Cross.

The proposed change to Rule 4763(e)(2) to add a condition stating that the re-pricing of short sale Orders to the midpoint—in lieu of the Permitted Price—will not be permitted when a resting non-displayed Order is locked or crossed at its non-displayed price by a Post-Only Order on the Nasdaq Book at the time of the Nasdaq Opening Cross or the Nasdaq Closing Cross is consistent with the Act because it will ensure such short sale Orders are ranked behind any Orders adjusted pursuant to Rule 4703(l), which, for the reasons stated above, would remove impediments to and perfect the mechanism of a free and open market and a national market system. As noted above, this change is necessary to ensure that short sale Orders subject to the Short Sale Price Test are prevented from being included, but unable to be executed, when the Nasdaq Opening or Closing Cross price is adjusted pursuant to the new rules being added in Rules 4752(d)(2)(G), 4753(b)(2)(E) and 4754(b)(2)(F). The Exchange notes that this change in no way allows for execution of a short sale Order subject to the Short Sale Price Test an impermissible price. Consequently, the proposed change will

[28] *See* Securities Exchange Act Release No. 80425 (April 11, 2017), 82 FR 18196 (April 17, 2017) (SR–NASDAQ–2017–031).

[29] The change to Rule 4752(d)(3)(B) made it clear that the locking or crossing would occur during Early Market Hours.

[30] *See supra* note 28.

[31] Rule 4752(d)(3)(B) concerns LOO orders, Early Market Hours limit orders, OIO orders, SDAY limit orders, SGTC limit orders, GTMC limit orders, SHEX limit orders, displayed quotes and reserve interest priced more aggressively than the Nasdaq Opening Cross price based on limit price with time as the secondary priority. Rule 4753(b)(3) concerns Eligible Interest, which is any quotation or any order that has been entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross. Rule 4754(b)(3)(B) concerns LOC orders, limit orders, IO orders, displayed quotes and reserve interest priced more aggressively than the Nasdaq Closing Cross price based on price with time as the secondary priority.

[32] *See supra* note 12.

[33] Thus, MOO, LOO, OIO, MOC, LOC and OI Orders are not affected, since they are only designated to operate in the Nasdaq Opening or Closing Cross. *See* Rule 4702(b).

[34] 15 U.S.C. 78f(b).

[35] 15 U.S.C. 78f(b)(5).

promote the efficient operation of the market.

The proposed changes to Rules 4752(d)(3)(B), 4753(b)(3) and 4754(b)(3)(B) delete inaccurate text from these rules concerning ranking of Orders in the Crosses that are locked or crossed at their non-displayed price by a Post-Only Order. The deletions from these rules reflect the current operation of these rules, which is consistent with the Act because the crossed or locked Order is meant to cede priority to all other Orders at its original price. The proposed changes to Rule 4703(l) corrects the rule to reflect that a member may also designate an Order to participate in the Nasdaq Halt Cross in addition to the Nasdaq Opening and Closing Crosses, which will reflect the current operation of the Exchange as described above. The Exchange is consequently updating Order Types under Rule 4702(b) that may also participate in a Nasdaq Halt Cross. The Exchange is also making a corrective change to Rule 4702(b)(4)(C) to correct text in the rule that currently states that the Post-Only Order may only participate in the Nasdaq Opening and Closing Crosses only if it is entered through an OUCH or FLITE port. The Exchange has never limited participation of Post-Only Orders in the Nasdaq Opening and Closing Crosses if they are entered through OUCH or FLITE ports. In sum, the proposed changes further perfect the operation of the Nasdaq Crosses, and protect investors by avoiding confusion that may be caused by inaccurate rules.

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 changes are not being done for competitive purposes, but rather to make the processing of the Nasdaq Opening and Closing Crosses more efficient by preventing short sale Orders from being included in the Nasdaq Opening and Closing Crosses, since these Orders may be unable to execute because of the Cross price selected if included therein. Moreover, the proposed changes correct inaccuracies in the rules, which do not affect competition whatsoever.

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) of the Act [36] and Rule 19b–4(f)(6) thereunder.[37]

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 change 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:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or

• Send an email to *rule-comments@sec.gov. Please include File Number SR–NASDAQ–2019–073 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–2019–073. This file number should be included on the subject line if email 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 also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–073 and should be submitted on or before October 16, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Jill M. Peterson,

Assistant Secretary.

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[36] 15 U.S.C. 78s(b)(3)(A).

[37] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87021; File No. 4–753]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing of Proposed Minor Rule Violation Plan

September 19, 2019.

Pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19d–1(c)(2) thereunder,[2] notice is hereby given that on August 23, 2019, Long-Term Stock Exchange, Inc. (''LTSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed minor rule violation plan (''MRVP'') with sanctions not exceeding $2,500 which would not be subject to the provisions of Rule 19d–

[1] 15 U.S.C. 78s(d)(1).

[2] 17 CFR 240.19d–1(c)(2).