SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81855; File No. SR-NASDAQ-2017-103)

October 11, 2017

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Postpone Implementation of a New Attribute for Designated Retail Orders

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 29, 2017, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I 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

The Exchange proposes to postpone implementation of a new attribute for designated retail orders

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

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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

On July 7, 2017, the Commission approved the Exchange's new Extended Life Priority Order Attribute ("ELO").[3] ELO will allow certain Displayed Orders[4] that are committed to a one-second or longer resting period to receive higher priority than other Displayed Orders of the same price on the Nasdaq Book. Currently, Nasdaq's System[5] places a time-stamp on each Order entered by a member, which determines the time ranking of the Order for purposes of processing the Order.[6] The System presents resting Orders on the Nasdaq Book for execution against incoming Orders in accordance with a price/display/time algorithm.[7] Price means that better priced Orders will be presented for execution first. The Exchange proposed ELO to promote Displayed Orders with longer time horizons, thereby enhancing the market so that it works for a wider array of market participants. Implementation of ELO requires the Exchange to make an exception to the general priority rules[8] so that Displayed Orders with an Extended Life Priority Attribute are allowed to earn queue priority on the Nasdaq Book at any given price level

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3 See Securities Exchange Act Release No. 81097 (July 7, 2017), 82 FR 32386 (July 13, 2017) (SR-NASDAQ-2016-161) (approving the proposal as modified by Amendment No. 1).

4 Only Designated Retail Orders, as defined by Rule 7018, are available for ELO.

5 As defined by Rule 4701(a).

6 See Rule 4756(a)(2).

7 See Rule 4757. To implement ELO's exception to the price/display/time algorithm the Exchange proposed amending Rule 4757. See supra note 3.

8 Id.

ahead of all other Displayed Orders without the Extended Life Priority Attribute.[9]

In proposing ELO, the Exchange anticipated a progressive rollout of the ELO functionality, beginning with a small set of symbols and gradually expanding further. The Exchange also committed to publish the symbols eligible for ELO on its Web site. The Exchange noted that it intended to implement the initial set of symbols for ELO in the third quarter of 2017, with the exact implementation date being reliant on several factors, such as the results of extensive testing and industry events and initiatives.

The Exchange has encountered unforeseen issues in developing ELO, which have delayed its implementation. These issues concern the complexity of programming the System to account for ELO priority over other Orders on the Nasdaq Book. The issues will require additional thoughtful and methodical development efforts to ensure that risks are adequately addressed, and the System will accurately account for the new ELO priority. As a consequence, the Exchange is proposing to implement ELO in the second half of 2018. As it originally committed to do, the Exchange will notify market participants via an Equity Trader Alert once a specific date for the initial rollout is determined.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect

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[9] The Exchange proposed to designate orders with the ELO attribute with a new, unique identifier or they may alternatively be entered through an order port that has been set to designate, by default, all orders with the new identifier. Orders marked with the new identifier—whether on an order-by-order basis or via a designated port—would be disseminated via Nasdaq's TotalView ITCH data feed.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, because it will allow the Exchange to adequately address complex unforeseen issues that introduce risk to the development and functioning of ELO. The Exchange believes that, to address these issues in a thorough and thoughtful manner, additional time is needed for it to solve these issues before it can implement ELO. As a consequence, the proposed delay will serve to protect investors by decreasing the likelihood of potential disruption to the market caused by the implementation of ELO.

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. Delaying the implementation of ELO will allow the Exchange to adequately analyze issues, as well as to further develop and test Nasdaq systems to ensure that ELO functions as proposed. Ensuring that the Exchange has adequate time to do so does not place a burden on competition whatsoever, since ELO has not been implemented and market participants have not yet begun to program their systems to accept ELO. Thus market participants will not be affected by the delay in its implementation.

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 and Rule 19b-4(f)(6) thereunder.[12]

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act[13] normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)[14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may immediately extend the ELO implementation date. The Exchange stated that it will not be able to implement ELO by the end of the third quarter of 2017. According to the Exchange, it has encountered unforeseen issues in developing ELO, and these issues will require additional thoughtful and methodical development efforts to ensure that risks are adequately addressed and the System will accurately account for the new ELO priority. The Exchange also stated that waiving the operative delay will allow it to implement the proposed implementation delay and provide notice to market participants thereof.[15] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[16]

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12 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

13 17 CFR 240.19b-4(f)(6).

14 17 CFR 240.19b-4(f)(6)(iii).

15 The Exchange stated that, as it originally committed to do, it will notify market participants via an Equity Trader Alert once a specific date for the initial rollout is determined and will publish the symbols that are eligible for ELO on its website.

16 For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2017-103 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2017-103. 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 such 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-2017-103, 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.[17]

Eduardo A. Aleman
Assistant Secretary

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[17] 17 CFR 200.30-3(a)(12).