

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-84752; File No. SR-NASDAQ-2018-100)

December 7, 2018

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Defined Terms “In-the-Money” and “Out-of-the-Money” in Chapter I, Section 1

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 November 30, 2018, 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.

- Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC (“NOM”) Rules at Chapter I, Section 1, specifically the defined terms “in-the-money” and “out-of-the-money” at NOM Rules at Chapter I, Section 1(a)(67) and (68), respectively.

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

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

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

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

NOM rules define an “in-the-money” option series at Chapter I, Section 1(a)(67). Currently the term “in-the-money” means, for call options, all strike prices below the offer in the underlying security on the primary listing market; for put options, all strike prices above the bid in the underlying security on the primary listing market. NOM rules define an “out-of-the-money” option series at Chapter I, Section 1(a)(68). Currently, the term “out-of-the-money” shall mean the following: for call options, all strike prices above the offer in the underlying security on the primary listing market; for put options, all strike prices below the bid in the underlying security on the primary listing market. The Exchange proposes to amend these defined terms as specified below.

In-the-Money

At this time, the Exchange proposes to amend the defined term “in-the-money” to include an “at-the money” option. The term “in-the-money” would be defined with this amendment to mean, for call options, all strike prices **at or** below the offer in the underlying security on the primary listing market; for put options, all strike prices **at or** above the bid in the underlying security on the primary listing market. The Exchange believes that amending the term “in-the-

money” to include options that are “at-the-money” will bring greater transparency to the manner in which the Exchange handles “at-the-money” options.<sup>3</sup>

#### In-the-Money and Out-of-the-Money

The Exchange proposes to limit the defined terms “in-the-money” and “out-of-the-money” option series for purposes of Market Maker quoting obligations in Chapter VII, Section 6. The Exchange notes that it specifically proposes to reference the rules related to Market Maker quoting obligations to avoid any confusion with the manner in which “in-the-money” and “out-of-the-money” options series are defined for purposes of other options rules. This limitation represents current practice. The Exchange also notes that it is conforming this term across its Nasdaq affiliated markets.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>5</sup> 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. The Exchange’s proposal to amend the defined term “in-the-money” to include options that are “at-the-money” will bring greater transparency to the current manner in which the Exchange handles “at-the-money” options.

The Exchange’s proposal to note that the defined terms “in-the-money” and “out-of-the-money” would apply for purposes of Market Maker quoting obligations in Chapter VII, Section

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<sup>3</sup> The Exchange notes that the inclusion of the term “at-the-money” within the defined term “in-the-money” represents the Exchange’s current practice.

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

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

6 would avoid any confusion with the manner in which “in-the-money” and “out-of-the-money” options series are defined for purposes of other options rules. The limitation of the defined terms for purposes of Market Maker quoting obligations in Chapter VII, Section 6 will bring transparency to the current use of the defined terms.

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 Exchange’s proposal to amend the defined term “in-the-money” to include options that are “at-the-money” and add limitations to the use of the defined terms “in-the-money” and “out-of-the-money” for purposes of Market Maker quoting obligations in Chapter VII, Section 6 do not unduly burden competition, rather these amendments add greater transparency to the Rulebook and makes clear the applicability of the definitions to avoid confusion with respect to the remainder of the options rules.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of

the Act<sup>6</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>7</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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2018-100 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.

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to File Number SR-NASDAQ-2018-100. 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 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-2018-100 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>8</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).