

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-90395; File No. SR-NASDAQ-2020-075)

November 12, 2020

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Technical and Conforming Amendments to The Nasdaq Options Market Rules at Options 4

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 3, 2020, 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 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 amend The Nasdaq Options Market (“NOM”) Rules at Options 4, Section 3, “Criteria for Underlying Securities,” Options 4, Section 5, “Series of Options Contracts Open for Trading,” and Options 4, Section 6, which is currently reserved, to relocate certain rule text and make other minor technical amendments.

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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 proposes to amend Options 4, Section 3, “Criteria for Underlying Securities,” Options 4, Section 5, “Series of Options Contracts Open for Trading,” and Options 4, Section 6, which is currently reserved, to relocate certain rule text and make other minor technical amendments. This rule change is similar to a rule change filed by Nasdaq BX, Inc.<sup>3</sup>

Options 4, Section 3

The Exchange proposes to amend Options 4, Section 3(1)(i) to add the words “or ETNs” after the phrase “collectively known as “Index-Linked Securities” for additional clarity. The Exchange believes that this addition of “ETNs” will assist Participants in locating this rule text.

Options 4, Section 5

*Relocate Rule Text*

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<sup>3</sup> See Securities Exchange Act Release No. 90218 (October 19, 2020), 85 FR 67579 (October 23, 2020) (SR-BX-2020-030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Technical Amendments to the Options Listing Rules).

The Exchange proposes to relocate certain portions of the Supplementary Material to Options 4, Section 5 in order that rule text related to certain strike listing programs be placed with related rule text. Proposed relocated rule text is not being amended with this proposal.

The Exchange proposes to relocate Supplementary Material .11 within Options 4, Section 5 to new Options 4, Section 5(a)(1).

The Exchange proposes to relocate Supplementary Material .14 within Options 4, Section 5 to new Options 4, Section 5(e).

The Exchange proposes to relocate Supplementary Material .12 within Options 4, Section 5 to new Options 4, Section 5(f).

The Exchange proposes to relocate Supplementary Material .02 within Options 4, Section 5 to new Options 4, Section 6.

The Exchange proposes to relocate Supplementary Material .07 within Options 4, Section 5 to new Options 4, Section 5(h).

The Exchange proposes to relocate Supplementary Material .08 within Options 4, Section 5 to new Options 4, Section 5(i).

The Exchange proposes to relocate Options 4, Section 5(d)(iv) to Supplementary Material .02 within Options 4, Section 5 and add a title “\$2.50 Strike Price Interval Program.”<sup>4</sup>

The Exchange proposes to delete the first sentence of Supplementary Material .03(e) within Options 4, Section 5, which provides “The interval between strike prices on Short Term Option Series shall be the same as the strike prices for series in that same option class that expire in accordance with the normal monthly expiration cycle.” The Exchange notes that this rule text

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<sup>4</sup> The Exchange proposes to relocate current Supplementary Material .02 to Options 4, Section 5 to new Options 4, Section 6, as described below.

is not necessary because with the relocation of the strike listing rules for Short Term Option Series, which are proposed to be relocated from Supplementary Material .13 of Options 4, Section 5 to the end of Supplementary .03(e) of Options 4, Section 5, the reference becomes unnecessary.

The Exchange proposes to relocate Supplementary Material .13 within Options 4, Section 5 to the end of Supplementary .03(e) of Options 4, Section 5.

#### *Other Technical Amendments*

The Exchange proposes to update certain outdated citations to rule text within Options 4, Section 5. The Exchange proposes to lowercase the term “customer” within Options 4, Section 5(c). The Exchange proposes to re-number and re-letter certain sections for consistency, and remove reserved sections from the rule. The Exchange proposes to utilize the defined term “Commission”<sup>5</sup> within Options 4, Section 5(f). The Exchange proposes to add the words “Long-Term Options Series or” before the term “LEAPS” and add quotation marks in that same sentence within current Supplementary Material .01(b)(v) at Options 5, Section 5 which is being renumbered as Supplementary Material .01(b)(5) at Options 5, Section 5.

#### Options 4, Section 6

The Exchange proposes to amend Options 4, Section 6, which is currently reserved. Similar to Nasdaq ISE, LLC (“ISE”) and Nasdaq BX, Inc., the Exchange proposes to relocate current Supplementary Material .02 to Options 4, Section 5 to new Options 4, Section 6 and title the section “Select Provisions of Options Listing Procedures Plan.” The Exchange proposes to update and conform the rule text of current Supplementary Material .02 to Options 4, Section 5

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<sup>5</sup> The terms “Commission” or “SEC” mean the Securities and Exchange Commission (SEC), established pursuant to the Act. See General 1(b)(7).

to mirror the rule text within ISE Options 4, Section 6 as well as BX Options 4, Section 6. The Exchange proposes to add this sentence. “A complete copy of the current OLPP may be accessed at: [http://www.optionsclearing.com/products/options\\_listing\\_procedures plan.pdf](http://www.optionsclearing.com/products/options_listing_procedures_plan.pdf)” to the end of proposed Options 4, Section 6(a) to provide greater detail. The Exchange also proposes to add a clause which provides that, “The series exercise price range limitations contained in subparagraph (a) above do not apply with regard to: the listing of Flexible Exchange Options,” similar to ISE and BX. In addition to renumbering this section to correspond to ISE’s and BX’s numbering, the Exchange proposes additional rule text which mirrors ISE’s and BX’s rule text which states,

(iii) The Exchange may designate up to five options classes to which the series exercise price range may be up to 100% above and below the price of the underlying security (which underlying security price shall be determined in accordance with subparagraph (i) above). Such designations shall be made on an annual basis and shall not be removed during the calendar year unless the options class is delisted by the Exchange, in which case the Exchange may designate another options class to replace the delisted class. If a designated options class is delisted by the Exchange but continues to trade on at least one options exchange, the options class shall be subject to the limitations on listing new series set forth in subparagraph (i) above unless designated by another exchange.

(iv) If the Exchange that has designated five options classes pursuant to subparagraph (iii) above requests that one or more additional options classes be excepted from the limitations on listing new series set forth in subparagraph (i) above, the additional options class(es) shall be so designated upon the unanimous consent of all exchanges that trade the options class(es). Additionally, pursuant to the Exchange's request, the percentage

range for the listing of new series may be increased to more than 100% above and below the price of the underlying security for an options class, by the unanimous consent of all exchanges that trade the designated options class.

Exceptions for an additional class or for an increase of the exercise price range shall apply to all standard expiration months existing at the time of the vote, plus the next standard expiration month to be added, and also to any non-standard expirations that occur prior to the next standard monthly expiration.

The Exchange believes that the addition of this rule text will harmonize NOM's Rule to ISE's Options 4, Section 6 as well as BX Options 4, Section 6 and also memorialize certain aspects of the Options Listing Procedures Plan so that market participants will have ease of reference in locating language concerning the Options Listing Procedures Plan.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</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 make a non-substantive amendment to Options 4, Section 3 to add the more commonly used term "ETN" next to "Index-Linked Securities" will allow Participants to search the rule text using the term "ETN".

Amending Options 4, Section 5 to relocate rule text within the related listing program

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

will make the rule easier to understand. The rule text being relocated is not amended by this proposal. The remainder of the rule changes within Options 4, Section 5 are non-substantive and intended to provide clarity to the rule text.

Relocating current Supplementary Material .02 to Options 4, Section 5 to new Options 4, Section 6 and titling the section “Select Provisions of Options Listing Procedures Plan” will harmonize NOM’s listing rules with those of ISE and BX. Further, the Exchange believes that the addition of rule text within Options 4, Section 6, similar to ISE Options 4, Section 6 and BX Options 4, Section 6, will provide market participants with ease of reference in locating language concerning the Options Listing Procedures Plan.

The Exchange believes that the proposed amendments are consistent with the Act and the protection of investors and the general public because the amendments bring greater clarity to NOM’s listing 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes are non-substantive and are intended to provide greater clarity.

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<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>10</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>11</sup> 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 requested that the Commission waive the 30-day operative delay. As the proposed rule change raises no novel issues and promotes clarity and consistency within the Exchange's options listing rules, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>12</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

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 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.

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2020-075 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-2020-075. 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-2020-075, 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>13</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).