

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72442; File No. SR-NASDAQ-2014-066)

June 20, 2014

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay Implementation of the Nasdaq Opening Cross Contingency

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 June 13, 2014, The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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 proposes a rule change to delay implementation of the Opening Cross Contingency.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ 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 those 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 parts of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to delay implementation of the Opening Cross Contingency, which was adopted by the Exchange on May 13, 2014³ but is not yet implemented. The Exchange had originally anticipated implementing the Opening Cross Contingency in mid-June 2014 at the conclusion of the 30 day operative delay provided by Rule 19b-4(f)(6)(iii) under the Act.⁴ The Exchange, however, has experienced an unanticipated delay in the development of the new process, which has made the original implementation date unachievable. The Exchange will implement the Opening Cross Contingency in the third quarter of 2014 and will provide at least 30 days prior notice of the implementation date to members and investors via an Equity Trader Alert.⁵

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and with Section 6(b)(5) of the Act,⁷ in particular, because it 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

³ Securities Exchange Act Release No. 72226 (May 22, 2014), 79 FR 30905 (May 29, 2014) (SR-NASDAQ-2014-054).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

⁵ Equity Trader Alerts may be found at this Web address:
http://www.nasdaqtrader.com/Trader.aspx?id=archiveheadlines&cat_id=2.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the Opening Cross Contingency will promote transparency in the process for handling failures of the Opening Cross in calculating an opening price for System securities, and will promote consistent results in handling such Opening Cross failures. Delaying implementation of the Opening Cross Contingency for a brief period so that NASDAQ may implement the changes necessary to ensure the process operates as planned promotes fair and orderly markets, the protection of investors and the public interest.

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.⁸ The Exchange believes that the proposal is irrelevant to competition because it is not driven by, and will have no impact on, competition. Specifically, the proposal is representative of the Exchange's efforts in contingency planning. Such efforts are never used by exchanges for competitive purposes.

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

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

⁸ 15 U.S.C. 78f(b)(8).

- (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)⁹ of the Act and Rule 19b-4(f)(6)¹⁰ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6) of the Act¹¹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii) of the Act,¹² the Commission may 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 so that the proposal may become operative immediately upon filing and it may delay implementation of the Opening Cross Contingency until the third quarter of 2014. According to the Exchange, this delay will allow sufficient time to make necessary programming changes to ensure that the Opening Cross Contingency performs as the Exchange originally intended. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because waiver will allow the Exchange to immediately delay implementation and provide the Exchange with additional time to make necessary programming changes to ensure the Opening Cross Contingency will operate in the manner intended. The Commission hereby waives the 30-day

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 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 the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii).

operative delay and designates the proposed rule change to be operative upon filing with the Commission.¹³

At any time within 60 days of the filing of such 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-2014-066 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-2014-066. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

¹³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 offices 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-2014-066, 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.¹⁴

Kevin M. O'Neill
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).