

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103085; File No. SR-NASDAQ-2025-011]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Introduce Functionality to Initiate a Trading Halt for Exchange-Traded Products on Launch Day

May 20, 2025.

I. Introduction

On January 31, 2025, The Nasdaq Stock Market LLC (the “Exchange” or “Nasdaq”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to introduce an optional functionality for Exchange-Traded Products to initiate a trading halt on the launch day of an Exchange-Traded Product, similar to the halt used in initial public offerings (“IPOs”). The proposed rule change was published for comment in the Federal Register on February 20, 2025.³ On March 6, 2025, pursuant to Section 19(b)(2) of the Exchange Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On May 6, 2025, the Exchange filed Amendment No. 1, which

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 102413 (February 13, 2025), 90 FR 10001.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 102537, 90 FR 11866 (March 12, 2025). The Commission designated May 21, 2025, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

amends and replaces the proposed rule change in its entirety.⁶ The Commission has received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 1 to the proposed rule change from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 1

In its filing with the Commission, the self-regulatory organization 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.

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

1. Purpose

The Exchange proposes to amend its Equity 1 – Equity Definitions and Equity 4 – Equity Trading Rules to allow Exchange-Traded Products (“ETPs”)⁷ to utilize an optional new halt on launch day (hereinafter, the “Initial ETP Open”), and resume trading using the Nasdaq Halt

⁶ In Amendment No. 1, the Exchange added clarifying or corrective changes that, among other things: (1) provides additional background on how an ETP opens today and rationale on why the Exchange is proposing the Initial ETP Open; (2) specifies that the Exchange would only assign one DLP per ETP in the context of the proposed Initial ETP Open; (3) deletes the Regulation M statement relating to the DLP in proposed Rule 4120(c)(11)(A) because the Exchange inadvertently included this statement when it does not apply in the context of this proposal; (4) adds more granularity in proposed Rule 4120(c)(11)(B)(i) about the DLP notifying the Exchange that the ETP is ready to trade; (5) clarifies that price bands would be set exchange-wide and not on a security-by-security basis; (6) specifies the DLP's responsibilities in the proposed Initial ETP Open; and (7) clarifies that the IPO Indicator will provide the same information in the Order Imbalance Indicator under this proposal. Amendment No. 1 to the proposed rule change is available on the Commission's website at: <https://www.sec.gov/comments/sr-nasdaq-2025-011/srnasdaq2025011.htm>.

⁷ As discussed later in this filing, the Exchange will add “Exchange-Traded Products” as a defined term in Equity 1, Section 1(a).

Cross.⁸ As discussed in detail below, the proposed Initial ETP Open is designed to operate similarly to Nasdaq's IPO opening process for corporate securities with specified differences to account for the unique characteristics of ETPs. With this proposal, an ETP issuer launching the ETP on the first day of trading would have the option to open the security at the start of Pre-Market Hours⁹ at 4:00 a.m. Eastern Time ("ET"), which is the case today, or delay the opening of the security pursuant to the proposed Initial ETP Open process until Market Hours.¹⁰

This functionality is intended to support efficient price discovery by enabling ETP issuers to enter a halt on launch day, for a specified time period, after which the ETP can be manually opened. This proposed rule would enable ETP issuers to maximize the chances of more efficient price discovery on launch day while also ensuring there are safeguards for the opening price to protect investors against unexpected volatility in the pricing of the ETP. As proposed, an ETP's initial price would be determined based on market interest and, similar to other auction processes, the matching of buy and sell orders in this auction would be open to all market participants.

Background

Today, ETPs open for trading on Nasdaq at 4:00 a.m. ET at the start of Pre-Market Hours where the ETP becomes available for buying and selling during that time period. The ETP then

⁸ The "Nasdaq Halt Cross" is the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest. See Rule 4753(a)(4). "Eligible Interest" shall mean 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. See Equity 4, Rule 4753(a)(5).

⁹ The term "Pre-Market Hours" means the period of time beginning at 4:00 a.m. ET and ending immediately prior to the commencement of Market Hours. See Equity 1, Section 1(a)(9).

¹⁰ The term "Market Hours" means the period of time beginning at 9:30 a.m. ET and ending at 4:00 p.m. ET (or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early). See Equity 1, Section 1(a)(9).

participates in Nasdaq's Opening Cross at 9:30 a.m. ET pursuant to Rule 4752. This is the case for an ETP's initial day of trading as well as any other trading day for the ETP. While the Exchange has not experienced issues with opening ETPs at 4:00 a.m. ET, ETP issuers have indicated to the Exchange their desire for a more high-touch launch day opening process for some ETPs, similar to the Exchange's IPO opening process for corporate securities. Similar to the existing IPO process for corporate securities, the proposed process for ETPs would delay the opening of the security until Market Hours, and the security would be released for trading pursuant to the Halt Cross process in Rule 4753. The Exchange is not proposing to use the Opening Cross under Rule 4752 to release the ETP for trading in this instance because the Exchange is seeking to prevent trading in the ETP on its first day under this proposal until at least 9:40 a.m. ET, as described below, and then have the ETP enter the Halt Cross process under Rule 4753 in order to be released for trading. In contrast, the Opening Cross contemplates that there could be active trading in a security prior to that auction process, as the Opening Cross utilizes prevailing market bids and offers to establish thresholds for establishing Nasdaq opening prices.¹¹

Today, securities of companies listing on Nasdaq in an IPO are halted pursuant to Equity 4, Rule 4120(a)(7) until such time as the conditions in 4120(c)(8) are satisfied, and the Exchange releases the IPO security for trading pursuant to the Nasdaq Halt Cross in Rule 4753.¹² In the

¹¹ See Rule 4752(d). See also https://nasdaqtrader.com/content/productsservices/trading/crosses/openclose_faqs.pdf.

¹² In general, Equity 4, Rule 4120(a) sets forth Nasdaq's authority to initiate trading halts or pauses in the circumstances specified thereunder. Equity 4, Rule 4120(c) then sets forth the various procedures for initiating and terminating such trading halts. Equity 4, Rule 4753 then sets forth procedures for the resumption of trading following various trading halts enumerated in Rule 4120(a). Specifically, Rule 4753(b) provides, in part, that for Nasdaq-listed securities that are the subject of a trading halt initiated pursuant to Rule 4120(a)(7) (i.e., the IPO halt), the Nasdaq Halt Cross shall occur at the time specified by Nasdaq pursuant to Rule 4120, and Market Hours trading would commence when the Nasdaq Halt Cross concludes.

context of an IPO, the Nasdaq Halt Cross is also referred to herein as the “IPO Halt Cross.”

Prior to the cross execution, market participants may enter quotes and orders eligible for participation in the cross. Pursuant to Rule 4120(c)(8), prior to terminating the IPO halt, the security enters a Display Only Period during which indicative information about the potential outcome of the Nasdaq Halt Cross is displayed to market participants every second via the Order Imbalance Indicator,¹³ and during which market participants may continue to enter orders and quotes in that security in Nasdaq systems.¹⁴

Rule 4120(c)(8) further states that after the conclusion of the Display Only Period, the IPO security enters a “Pre-Launch Period” of indeterminate duration, during which indicative information continues to be disseminated,¹⁵ and market participants are able to submit and cancel orders as they are currently able to do so during the Display Only Period. The Pre-Launch Period ends and the security is released for trading by Nasdaq when the conditions described in paragraphs (c)(8)(A)(i), (ii), and (iii) of Rule 4120 are all met:

- Nasdaq receives notice from the underwriter of the IPO that the security is ready to trade. The Nasdaq system then calculates the Current Reference Price¹⁶ at that

¹³ “Order Imbalance Indicator” means a message disseminated by electronic means containing information about Eligible Interest and the price at which such interest would execute at the time of dissemination. The Order Imbalance Indicator shall disseminate the following information: (A) Current Reference Price, (B) the number of shares of Eligible Interest that are paired at the Current Reference Price, (C) the size of any Imbalance or Market Order Imbalance, as applicable, (D) the buy/sell direction of any Imbalance or Market Order Imbalance, as applicable, and (E) indicative prices at which the Nasdaq Halt Cross would occur if the Nasdaq Halt Cross were to occur at that time. See Rule 4753(a)(3).

¹⁴ Equity 4, Rule 4753(b)(1) provides that at the beginning of the Display Only Period and continuing through the resumption of trading, Nasdaq would disseminate by electronic means an Order Imbalance Indicator every second.

¹⁵ See Equity 4, Rule 4753(b)(1).

¹⁶ “Current Reference Price” means: (i) The single price at which the maximum number of shares of Eligible Interest can be paired. (ii) If more than one price exists under subparagraph (i), the Current Reference Price shall mean the price that minimizes any Imbalance. (iii) If more than one price exists under subparagraph (ii), the Current Reference Price shall mean the entered price at which shares will remain

time (the “Expected Price”) and displays it to the underwriter. If the underwriter then approves proceeding, the Nasdaq system will conduct two validation checks.

- First, the Nasdaq system must determine that all market orders will be executed in the Nasdaq Halt Cross; and
- Second, the security must pass the price validation test described in subparagraph (C) of Rule 4120(c)(8), which essentially provides that if the actual price calculated by the Nasdaq Halt Cross differs from the Expected Price by an amount in excess of a price band previously selected by the underwriter, the security will not be released for trading and the Pre-Launch period will continue.

As provided in Rule 4120(c)(8)(A), the failure to satisfy these conditions during the process to release the security for trading would result in a delay of the release for trading of the IPO

security, and a continuation of the Pre-Launch Period, until all conditions have been satisfied.

Market participants may continue to enter orders and order cancellations for participation in the IPO Halt Cross during the Pre-Launch Period up to the point that the IPO Halt Cross auction

process commences pursuant to Equity 4, Rule 4753(b).

unexecuted in the cross. (iv) If more than one price exists under subparagraph (iii), the Current Reference Price shall mean: (a) In the case of an IPO, the price that is closest to the Issuer's Initial Public Offering Price; (b) In the case of the initial pricing of a security listing under Listing Rules IM-5315-1, IM-5405-1, or IM-5505-1, for a security that has had recent sustained trading in a Private Placement Market (as defined in Rule 5005(a)(34)) prior to listing, the most recent transaction price in that market or, if none, a price determined by the Exchange in consultation with the financial advisor to the issuer identified pursuant to Rule 4120(c)(9); (c) In the case of the initial pricing of a security listing under Listing Rule IM-5315-2, the price that is closest to the price that is 20% below (calculated as provided for in Listing Rule IM-5315-2) the lowest price of the price range disclosed by the issuer in its effective registration statement; (d) In the case of another halt type in which the security has already traded during normal market hours on that trading day, the price that is closest to the last Nasdaq execution prior to the trading halt; (e) In the case of another halt type in which the security has not already traded during normal market hours on that trading day, the price that is closest to the previous Nasdaq Official Closing Price; and (f) In the case of the initial pricing of a security that traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing, the price that is closest to the most recent transaction price in that market. Notwithstanding the foregoing, the Order Imbalance Indicator will not include the Current Reference Price if there is a Market Order Imbalance. See Rule 4753(a)(3)(A).

The Exchange believes that the IPO opening process described above has worked well in the context of Nasdaq-listed corporate securities to provide fair executions for investors through an open and transparent process that protects against unexpected volatility in the pricing of an IPO security. Accordingly, the Exchange proposes to adopt a similar process for Nasdaq-listed ETPs. Unlike the IPO opening process, the Initial ETP Open will involve a Designated Liquidity Provider (“DLP”)¹⁷ (i.e., the Nasdaq market maker for the ETP) instead of an underwriter, such that Nasdaq would display the Expected Price of the Nasdaq Halt Cross for the ETP to the DLP, who will select price bands to ensure that the actual calculated price at which the Nasdaq Halt Cross would occur does not deviate from the Expected Price by more than the selected price band amounts. Additionally, the Exchange is proposing to submit the ETP for validation checks at 9:45 a.m. ET at the latest without exception, whereas under the existing IPO process, the Exchange does not submit the IPO security for validation checks until the underwriter approves proceeding.

Proposal

The Exchange proposes to amend (1) Equity 1, Section 1(a) to add a new definition for “Exchange-Traded Products,” (2) Equity 4, Rule 4120(a) to provide the Exchange with explicit authority to declare a trading halt in a Nasdaq-listed ETP on its first day of trading, provided specified conditions are met, (3) Equity 4, Rule 4120(c) to add the process by which the Exchange will initiate and terminate the proposed trading halt for Nasdaq-listed ETPs, (4) Equity

¹⁷ Equity 7, Section 11(f)(2) provides that a “Designated Liquidity Provider” or “DLP” is a registered Nasdaq market maker for a Qualified Security (i.e., an ETP) that has committed to maintain minimum performance standards. A DLP shall be selected by Nasdaq based on factors including, but not limited to, experience with making markets in exchange-traded products, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. Nasdaq may limit the number of DLPs in a security, or modify a previously established limit, upon prior written notice to members.

4, Rule 4753(b) to include the proposed trading halt in the list of enumerated provisions that would be subject to the Nasdaq Halt Cross, and (5) Equity 7, Section 115(i) to specify that an ETP issuer may subscribe to the IPO Workstation at no cost.

The Exchange first proposes to add a new definition for “Exchange-Traded Products” in Equity 1, Section 1(a). Specifically, the Exchange proposes to add in new paragraph (15) that the term "Exchange-Traded Product" means a security listed on Nasdaq pursuant to Nasdaq Rules 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750 or 5760. The proposed definition aligns to the definition of “Qualified Securities” set forth in the Exchange’s Designated Liquidity Provider program in Equity 7, Section 114(f).¹⁸

In proposed Equity 4, Rule 4120(a)(15), the Exchange proposes to explicitly provide that the Exchange has authority to halt trading in a Nasdaq-listed ETP on its first day of trading, provided specified conditions are met. Specifically, proposed Rule 4120(a)(15) will provide that Nasdaq may halt trading in an ETP for which Nasdaq is the primary listing market on the first day of trading, provided that (i) the issuer of the ETP being listed opts into this process, and (ii) a broker-dealer serving in the role of DLP to the issuer of the ETP being listed is willing to perform the functions under this Rule.¹⁹ The proposed Initial ETP Open will be offered on an optional basis such that an ETP issuer would have the option on the ETP’s initial launch day of opening the ETP at 4:00 a.m. ET (i.e., the current process), or delaying the opening until Market Hours with the new Initial ETP Open process. The Exchange notes that certain ETP issuers may

¹⁸ As set forth in Equity 7, Section 114(f)(1), a security may be designated as a “Qualified Security” if: (A) it is an exchange-traded product listed on Nasdaq pursuant to Nasdaq Rules 5704, 5705, 5710, 5711, 5713, 5715, 5720, 5735, 5745, 5750 or 5760; and (B) it has at least one Designated Liquidity Provider.

¹⁹ In practice, Nasdaq currently only assigns one DLP per ETP. Should Nasdaq determine to assign more than one DLP per ETP in the context of this proposed Initial ETP Open, Nasdaq will submit another rule filing to describe which DLP would perform which function in the Initial ETP Open.

want to open at 4:00 a.m. ET on launch day instead of delaying the opening until Market Hours as proposed hereunder because of the availability for earlier buying and selling in the ETP. Other ETP issuers may seek to use the Initial ETP Open to delay the opening of the ETP until Market Hours because of increased trading activity in the ETP and its underlying component securities, making pricing in the ETP potentially less volatile. The Exchange believes that ETP issuers, in consultation with the DLP, with their understanding of the ETP, are best situated to make the decision whether to open during pre-market or regular market hours, and therefore proposes to give them the option to choose one process over the other. The Exchange further believes that the DLP, with their market knowledge of the book and an understanding of the ETP, would be well placed to notify the Exchange when the ETP should be released for trading and approve the Exchange proceeding with the price validation checks after the DLP receives the Expected Price.

The Exchange proposes in new paragraph (c)(11) to Equity 4, Rule 4120 to add the process by which the Exchange will initiate and terminate the trading halt that is being proposed under Rule 4120(a)(15), as described above. Specifically, Nasdaq proposes under Equity 4, Rule 4120(c)(11)(A) that the process for halting and initial pricing of a Nasdaq-listed ETP that is the subject of an Initial ETP Open pursuant to Rule 4120(a)(15) and this Rule, respectively, will be available on an optional basis, provided that the conditions in Rule 4120(a)(15)(i) and (ii) above are met.²⁰

²⁰ As discussed above, the conditions in proposed Rule 4120(a)(15)(i) and (ii) provide that Nasdaq may halt trading in an ETP for which Nasdaq is the primary listing market on the first day of trading, provided that (i) the issuer of the ETP being listed opts into this process, and (ii) a broker-dealer serving in the role of DLP to the issuer of the ETP being listed is willing to perform the functions under this Rule.

Proposed Rule 4120(c)(11)(B) will set forth the process and conditions for terminating a trading halt initiated under proposed Rule 4120(a)(15), which will be similar to the existing IPO opening process in Rule 4120(c)(8) in the manner discussed below. Similar to the current IPO opening process, beginning at 9:30 a.m. ET, the ETP would enter a 10-minute Display Only Period prior to the termination of the halt, during which (and up until the resumption of trading) indicative information about the potential outcome of the Nasdaq Halt Cross that will be conducted for the ETP will be displayed to market participants every second through an Order Imbalance Indicator,²¹ and during which market participants may continue to enter orders, quotes, and cancellations in that ETP in Nasdaq systems.

Specifically, proposed Rule 4120(c)(11)(B) will provide that a trading halt initiated under Rule 4120(a)(15) shall be terminated when Nasdaq releases the security for trading and the conditions described in sub-paragraphs (B)(i) – (iii) are satisfied.²² Prior to terminating the halt, there will be a 10-minute Display Only Period during which market participants may enter quotes and orders in that security in Nasdaq systems. Before the Display Only Period begins and once the security is set up in the Nasdaq system during Pre-Market Hours, market participants may enter orders in a security that is the subject of an Initial ETP Open on Nasdaq.²³ Such orders will be accepted and entered into the system.

Proposed Rule 4120(c)(11)(B) will also provide that after the conclusion of the 10-minute Display Only Period, the security will enter a “Pre-Launch Period.” Similar to the IPO opening process discussed above, the Exchange would continue to disseminate throughout the Pre-

²¹ See supra note 10.

²² As discussed later in this filing, proposed sub-paragraphs (B)(i)-(iii) will set forth the conditions for when the Pre-Launch period will end and when the ETP will be released for trading.

²³ Nasdaq will begin accepting orders in ETP securities when Nasdaq staff manually starts up the order window during Pre-Market Hours and before the Display Only Period.

Launch Period (and up until the resumption of trading) an Order Imbalance Indicator every second.²⁴ Market participants would also be able to submit and cancel interest during the Pre-Launch Period for the Initial ETP Open as they do today during the Pre-Launch Period for an IPO opening process. Proposed Rule 4120(c)(11)(B) will further provide that the Pre-Launch Period shall end and the security shall be released for trading by Nasdaq when the following conditions in proposed sub-paragraphs (B)(i) – (iii) are all met:

- The ETP will be submitted for the validation checks pursuant to subparagraphs (B)(ii) and (iii) below by 9:45 a.m. ET at the latest. Prior to this time, if Nasdaq receives notice by 9:40 a.m. ET from the DLP of the Initial ETP Open that the ETP is ready to trade,²⁵ the Nasdaq system will calculate the Current Reference Price (as defined in Rule 4753(a)(3)(A)) (the “Expected Price”) at 9:40 a.m. ET and display it to the DLP.²⁶ If the DLP then approves proceeding, the Nasdaq system will conduct the validation checks in subparagraphs (B)(ii) and (iii) below before releasing the ETP for trading pursuant to the Nasdaq Halt Cross.²⁷ If no

²⁴ See supra note 10.

²⁵ The Exchange notes that if the DLP instead notified Nasdaq that the ETP was not ready to trade, the Exchange would wait until 9:45 a.m. ET at the latest for the DLP to confirm that the ETP was ready, and once confirmation is received within that time frame, the Exchange would conduct the validation checks and open the ETP for trading pursuant to the Nasdaq Halt Cross once the validation checks were passed.

²⁶ See supra note 13. The Exchange will display the Expected Price (i.e., the Current Reference Price as defined in the Nasdaq Halt Cross rule in Rule 4753(a)(3)(A)) to the DLP and all market participants via the Order Imbalance Indicator.

²⁷ Upon passing the validation checks, the Pre-Launch Period will end and Nasdaq will open the ETP for trading pursuant to the Nasdaq Halt Cross in Rule 4753. If the ETP does not pass the validation checks, the Pre-Launch Period will continue and Nasdaq will recommence another round of validation checks. This is an iterative process. The ETP will not open for trading until it passes the validation checks. Further, if the DLP does not approve proceeding, then the Nasdaq system will recalculate the Expected Price and display it to the DLP (and all other market participants) via Order Imbalance Indicator until the DLP approves proceeding to the Nasdaq system conducting the two validation checks in subparagraphs (B)(ii) and (B)(iii). Notwithstanding the foregoing, the ETP will be submitted for the validation checks by 9:45 a.m. ET at the latest. See Rule 4120(c)(8)(i) for similar provisions with respect to the underwriter and the IPO

notice is received by 9:40 a.m. ET, the Nasdaq system will assume the DLP is ready to trade. Accordingly, the Nasdaq system will calculate the Expected Price, and then conduct the validation checks in subparagraphs (B)(ii) and (iii) below before releasing the ETP for trading pursuant to the Nasdaq Halt Cross.²⁸ If the DLP notifies the Exchange by 9:40 a.m. ET that the ETP is not ready to trade, Nasdaq will recalculate the Expected Price and display it to the DLP until the DLP approves proceeding. However, by 9:45 a.m. at the latest, the Nasdaq system will conduct the following validation checks:

- First, the Nasdaq system must determine that all market orders will be executed in the Nasdaq Halt Cross; and²⁹
- Second, the security must pass the price validation test described below in proposed subparagraph (C) of Rule 4120(c)(11).³⁰

Proposed subparagraph (C) of Rule 4120(c)(11) will provide that prior to the conclusion of the Pre-Launch Period, the DLP may select price bands for purposes of applying the price validation test.³¹ Under the price validation test, the System compares the Expected Price with

opening process, except the Exchange is proposing to submit the ETP for validation checks by 9:45 a.m. ET at the latest and is also proposing to add a scenario where Nasdaq receives no notice by 9:40 a.m. ET.

²⁸ In this instance, the Exchange will conduct the validation checks in proposed subparagraphs (B)(ii) and (B)(iii) of Rule 4120(c)(11) at 9:40 a.m. ET, and then open the ETP for trading pursuant to the Nasdaq Halt Cross upon passing the validation checks .

²⁹ The intent of this restriction is to ensure that if a market participant enters an order offering to buy or sell in the Nasdaq Halt Cross at any price, the cross should not occur unless all such orders can be executed. The Exchange notes that the IPO opening process has an identical restriction for the same reasons. See Rule 4120(c)(8)(A)(ii).

³⁰ See Rule 4120(c)(8)(A)(iii) for identical provisions.

³¹ The DLP can select the price bands at any time before or during the Display Only Period or Pre-Launch Period, and can modify them at any time prior to the conclusion of the Pre-Launch Period. As discussed later in this filing, DLPs may choose price bands within the range of \$0.00 to \$0.50. If the DLP does not select any price bands, the default bands will be set at \$0.00.

the actual price calculated by the Nasdaq Halt Cross. If the actual price calculated by the Nasdaq Halt Cross differs from the Expected Price by an amount in excess of the price band, the security will not be released for trading and the Pre-Launch Period will continue. The DLP may select an upper price band (i.e., an amount by which the actual price may not exceed the Expected Price) and a lower price band (i.e., an amount by which the actual price may not be lower than the Expected Price). If a security does not pass the price validation test, the DLP may, but is not required to, select different price bands before recommencing the process to release the security for trading.

For example, assume that the Expected Price for the Nasdaq Halt Cross shown to the DLP was \$32 per share, and the DLP selected an upper price band of \$0.10 and a lower price band of \$0.05. In that case, the actual price calculated by the system for the cross could not be higher than \$32.10 nor lower than \$31.95.

The price bands available for selection shall be in such increments, and at such price points, as may be established from time to time by Nasdaq; the available price bands shall include \$0 but shall not be in excess of \$0.50. The initial available price bands will range from \$0 to \$0.50, with increments of \$0.01. Thus, the DLP may select a price band of \$0 (i.e., no change from the Expected Price would be permitted in this instance), \$0.01, \$0.02, or any other \$0.01 increment up to \$0.50. The DLP may select different price bands above and below the Expected Price. The Exchange reserves the right to stipulate wider increments (such as \$0.05) or price bands that include certain price points but exclude others (for example, increments of \$0.01 up to \$0.10, and increments of \$0.05 thereafter). However, the Exchange will not (in the absence of the submission of a proposed rule change) allow price bands wider than \$0.50, as proposed in Rule 4120(c)(11)(C). Nasdaq will notify member organizations and the public of

changes in available price band or increments through a notice that is widely disseminated at least one week in advance of the change.³² In selecting available price bands and increments, Nasdaq will consider input from DLPs and other market participants and the results of past usage of price bands to adopt price bands and increments that promote efficiency in the initiation of trading and protect investors and the public interest.³³

Similar to the IPO opening process, the failure to satisfy the conditions in proposed Rule 4120(c)(11)(B)(i) – (iii) during the process to release the security for trading will result in a delay of the release for trading of the Initial ETP Open, and a continuation of the Pre-Launch Period, until all conditions have been satisfied.³⁴ Thus, if the conditions have not been satisfied, the Pre-Launch Period would continue seamlessly, with members able to continue to enter or cancel orders. The ETP would then repeat the process for release until such time the conditions required for launch (i.e., proposed Rule 4120(c)(11)(B)(i) – (iii)) were satisfied). Thus, the DLP would be shown the applicable Expected Price, and the ETP would launch if all market orders would be executed and the price validation in proposed Rule 4120(c)(11)(C) was satisfied. This process can continue until 9:45 a.m. ET, at which point the ETP would open pursuant to the Nasdaq Halt Cross upon passing the validation checks. The Exchange believes that opening the ETP at 9:45 a.m. ET with no exceptions is appropriate because by that time, the DLP would be expected to step in and respond to any excess demand, and any excess volatility in the ETP would be protected through the proposed validation checks. Under the proposed Initial ETP

³² Price bands will be set exchange-wide, not on a security-by-security basis.

³³ See proposed Rule 4120(c)(11)(C), which is similar to Rule 4120(c)(8)(B). The Exchange is proposing to add language about reserving the right to use wider bands, which is also true for the IPO process today even though the current IPO rule is silent in this regard.

³⁴ See proposed Rule 4120(c)(11)(B), which is similar to Rule 4120(c)(8)(A).

Open, DLPs may set the price bands that would apply in the price validation checks,³⁵ notify Nasdaq that the ETP is ready to trade prior to 9:45 a.m. ET, and approve Nasdaq proceeding with the price validation checks after the DLP receives the Expected Price. Further, DLPs are incentivized under Nasdaq's DLP program in Equity 7, Section 114(f) to provide liquidity and participate in the Initial ETP Open.

In addition, unlike an IPO where only the underwriter may provide markets in the corporate security on the first day of trading, other liquidity providers in addition to the DLP may step in and begin providing markets in an ETP on its first day of trading, which could further promote price stability in the ETP. Similar to the IPO opening process, a DLP would be able (but not required) to select different price bands for each attempt to launch the ETP. Thus, a DLP might select an upper and a lower band of \$0 initially, such that the security would not launch unless the calculated price equaled the Expected Price. If the security did not pass the validation check, however, the DLP could subsequently choose to widen the price bands to allow the Initial ETP Open to proceed at a price that might vary from the Expected Price. Such price deviations are possible because market participants may continue to enter and cancel orders during the period between the display of the Expected Price to the DLP and the commencement of Nasdaq Halt Cross. Nasdaq may determine at any point during the cross auction process up through the conclusion of the Pre-Launch Period to postpone and reschedule the Initial ETP Open.³⁶ Market participants may continue to enter orders and order cancellations for

³⁵ See supra note 28 and accompanying text.

³⁶ See proposed Rule 4120(c)(11)(B), which is similar to Rule 4120(c)(8)(A), except the Exchange is not adopting language that provides that it would consult with the underwriter to postpone and reschedule the IPO. This language is designed to allow IPOs to be postponed and rescheduled because the underwriter, for example, did not think the corporate security was ready to trade, or Nasdaq had to postpone and reschedule the IPO due to a market event or system disruption. As discussed above, the Exchange is

participation in the cross auction during the Pre-Launch Period up to the point that the cross auction process commences.³⁷

The Exchange notes that the DLP's involvement in timing the commencement of trading in the ETP is consistent with the underwriter's involvement in the existing IPO opening process. Similar to the underwriter in an IPO, the Exchange believes that the DLP, with their market knowledge of the book and an understanding of the security, would be well placed to notify Nasdaq when the ETP should be released for trading and approve Nasdaq proceeding with the price validation checks after the DLP receives the Expected Price.

Accordingly, the Exchange believes it is in the best interest of the market to give DLPs input into the timing of when to proceed with opening the ETP via the Nasdaq Halt Cross to help ensure the fair and orderly launch of trading in the ETP. The proposed language allowing the DLP to postpone and reschedule the Initial ETP Open with the concurrence of Nasdaq is designed to allow flexibility if unforeseen market or system events make it inadvisable to proceed with the Initial ETP Open.

The Exchange is also proposing to update Rule 4753(b) to include proposed Rule 4120(a)(15) in the list of enumerated provisions that would be subject to the Nasdaq Halt Cross. As such, any ETP that is subject to the Initial ETP Open will be opened using the Nasdaq Halt Cross for trading during Market Hours.

Lastly, the Exchange proposes to amend Equity 7, Section 115, which sets forth pricing for various Nasdaq services such as the Nasdaq IPO Workstation. Today, the Nasdaq IPO

proposing to open the ETP at 9:45 a.m. ET at the latest, even if the DLP does not indicate that the ETP is ready to trade. However, the Exchange would like to retain the ability to postpone and reschedule the proposed Initial ETP Launch in the event of a serious market event or system disruption.

³⁷ See proposed Rule 4120(c)(11)(B), which is similar to Rule 4120(c)(8)(A).

Workstation provides subscribing member firms with access to the IPO Indicator service, which provides information on orders that would be received in an IPO during the launch process. This tool assists subscribing member firms in monitoring their orders in the Nasdaq Halt Cross leading up to the launch of an IPO.³⁸ The IPO Indicator provides the same information in the Order Imbalance Indicator³⁹ together with information about the subscribing member firms on Nasdaq in the IPO security. The IPO Indicator allows the subscriber to select an IPO security by ticker and see the Current Reference Price, the number of paired shares, and the number of imbalance shares during the Display Only and Pre-Launch Periods. The subscriber can also see the total number of IPO shares the member firm has entered for execution in the IPO Halt Cross, the nature of such shares (buy or sell), and the number of IPO shares that would be executed in the Nasdaq Halt Cross at that time for each of those categories. A subscriber can also access further detail on its IPO shares presented by individual order or order block, which will include the number of IPO shares in a particular order or order block, the number and percentage of IPO shares of the order or order block that would be executed in the Nasdaq Halt Cross if it occurred at any given time in the process, based on the Order Imbalance Indicator disseminated every second, and the price at which the order or order block was submitted. As such, the IPO Indicator provides member firms with information consistent with what Nasdaq currently disseminates during the IPO opening process, but as it relates to the member firm's orders and in greater detail.

The Exchange now proposes to offer this tool to subscribing member DLPs and non-member ETP issuers so that they may receive similar information described above for the ETP

³⁸ See Securities Exchange Act Release No. 74041 (January 13, 2015), 80 FR 2762 (January 20, 2015) (SR-NASDAQ-2014-110) (Order Approving a Proposed Rule Change to Offer the New IPO Workstation).

³⁹ See supra note 10.

securities subject to the Initial ETP Open.⁴⁰ Today, member firms may subscribe to the Nasdaq IPO workstation at no cost.⁴¹ DLPs are member firms, so they would also be able to subscribe to the Nasdaq IPO workstation at no cost to access the IPO Indicator under this proposal. The Exchange proposes in new paragraph (k) to Equity 7, Section 115 that an ETP issuer may likewise subscribe to the IPO Workstation at no cost so that they may receive similar information on orders in the proposed Initial ETP Open. This information will be the same information that is in the Order Imbalance Indicator.⁴²

Implementation

To implement this proposal, Nasdaq will release an Equity Trader Alert no later than the second quarter of 2025 announcing the implementation date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴³ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴⁴ 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 proposed rule change aims to protect investors and the public interest by strengthening safeguards against unexpected volatility in the pricing of ETPs on their launch day.

⁴⁰ The DLP and ETP issuer would receive the information described above for the IPO Indicator on a consolidated basis and not on an individual member firm's order basis.

⁴¹ See Equity 7, Section 115(i).

⁴² See *supra* note 10.

⁴³ 15 U.S.C. 78f(b).

⁴⁴ 15 U.S.C. 78f(b)(5).

The proposed rule change achieves these goals by offering an optional new issuer halt that enhances the price discovery process for ETPs on their initial day of trading. This function is similar to the IPO opening process in Rules 4120(a)(7), 4120(c)(8), and 4753, which has proven effective in managing price discovery for newly listed securities. While the IPO opening process currently provides protection by ensuring the final price does not deviate from recent indicative prices beyond set price band thresholds (such a \$0.50 change), similar safeguards are required to ensure stability and investor confidence in ETP pricing upon launch.

The Exchange believes that its proposal to offer optional functionality to permit ETP issuers the ability to open on launch day by entering into a new issuer halt would maximize the chances of more efficient price discovery and remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because the initial sale price would be based on market interest and the matching of buy and sell orders in an auction would be open to all market participants. Today, the ETP would simply open for trading at 4:00 a.m. ET during Pre-Market Hours at an initial price that is based on the ETP's Net Asset Value, as provided by the ETP issuer to Nasdaq. Accordingly, the Exchange believes that the proposed process would provide safeguards for the opening price of the ETP that is based on additional market information thereby protecting investors and the public interest.

Although the Exchange is providing ETP issuers the discretion to elect either the current process or the new proposed process, the Exchange believes that each price discovery process is designed to arrive at an opening price that represents the price for the underlying ETP. In particular, Nasdaq believes that the change will facilitate the commencement of orderly trading in ETPs on their first day of trading, by providing the DLP with flexibility throughout the initial launch process to allow order entry and the development of price stability prior to opening. The

Exchange believes that the DLP's involvement in timing the commencement of trading in the ETP, as described above, is consistent with the Act as this will promote the fair and orderly launch of trading in the ETP. The Exchange believes that the DLP, with their market knowledge of the book and an understanding of the security, would be well placed to notify Nasdaq when the ETP should be released for trading and approve Nasdaq proceeding with the price validation checks after the DLP receives the Expected Price.

The Exchange also believes that it is reasonable and appropriate to use the Nasdaq Halt Cross process under Rule 4753 to open trading in the ETP (upon passing the validation checks) because it is consistent with the process that is used by Nasdaq when opening an IPO security. It will ensure that the process for resuming trading following the Initial ETP Launch is consistent with other types of halts initiated by Nasdaq, including the IPO halt. The Exchange also believes that it is reasonable, equitable and not unfairly discriminatory to offer the IPO Workstation to all subscribing DLP member firms and non-member ETP issuers at no cost because they will be provided with more information regarding orders submitted for participation in the Initial ETP Open, similar to the IPO process as discussed above. Both the DLP and ETP issuer would be able to subscribe for this tool for the Initial ETP Open at no cost, just as all subscribing member firms do today for IPOs.

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. Specifically, the change will not affect the ability of market participants to participate fully in an ETP's launch day because it is an optional functionality that permits ETPs to enter into a new issuer halt on its launch day, for a specified time period, and then manually open. Rather, the change is designed

to promote stability and reduce volatility in the pricing of the ETP on its launch day, and therefore does not impose any restriction on competition. In particular, the Exchange believes that the optional initial launch process will enhance the competitiveness of its process for initial pricing of ETPs without imposing any burdens on the ability of DLP or other market participants to participate in that process.

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. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.⁴⁵ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,⁴⁶ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, 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 states that its proposal to permit ETP issuers to begin trading on launch day by conducting an auction at the beginning of regular trading hours would maximize the chances of more efficient price discovery and remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because

⁴⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴⁶ 15 U.S.C. 78f(b)(5).

the initial sale price would be based on market interest and the matching of buy and sell orders in an auction that would be open to all market participants. The Exchange states the proposed process would protect investors and the public interest by providing safeguards for the opening price of the ETP based on additional market information, as opposed to the current process in which the ETP would open for trading at 4:00 a.m. ET during Pre-Market Hours at an initial price informed by the ETP's Net Asset Value as provided by the ETP to the Exchange.

Further, the Exchange represents that the proposed Initial ETP Open process is similar to the IPO opening process, which has "proven effective in managing price discovery for newly listed securities."⁴⁷ Unlike the IPO opening process, (1) the Initial ETP Open would provide that a DLP, instead of an underwriter, select price bands to ensure that the actual calculated price at which the Nasdaq Halt Cross would occur does not deviate from the Expected Price by more than the selected price band amounts and (2) the ETP would be submitted for validation checks at 9:45 a.m. ET at the latest without exception, whereas under the existing IPO process underwriter approval is required prior to the Exchange submitting the IPO security for validation checks. The Exchange's proposal to provide an alternative opening process for ETPs on the first day of trading modeled on the IPO opening process could benefit investors by enhancing the price discovery process for ETPs on their initial day of trading, and the role of the DLP could be an additional safeguard against unexpected volatility in the pricing of the ETP.

Finally, the Exchange's proposal to offer the IPO Workstation to all subscribing DLP member firms and non-member ETP issuers at no cost, as is done for all subscribing member firms for IPOs, will promote just and equitable principles of trade. Access to the IPO Workstation will provide the DLP and ETP Issuer with information regarding orders submitted

⁴⁷ See Amendment No. 1 at 19.

for participation in the Initial ETP Open. The Exchange represents that the information made available through the IPO Workstation will be the same information that is in the Order Imbalance Indicator.⁴⁸

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act⁴⁹ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2025-011 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-2025-011. 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

⁴⁸ See page 17.

⁴⁹ 15 U.S.C. 78f(b)(5).

all comments on the Commission's internet website (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-011 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁵⁰ to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of Amendment No. 1 in the Federal Register. As described in greater detail above, in Amendment No. 1, the Exchange: (1) provided additional background on how an ETP opens today and rationale on why the Exchange is proposing the Initial ETP Open; (2) specified that the Exchange would only assign one DLP per ETP in the context of the proposed Initial ETP Open; (3) deleted the Regulation M statement relating to the DLP in

⁵⁰ 15 U.S.C. 78s(b)(2).

proposed Rule 4120(c)(11)(A) because the Exchange inadvertently included this statement when it does not apply in the context of this proposal; (4) added more granularity in proposed Rule 4120(c)(11)(B)(i) about the DLP notifying the Exchange that the ETP is ready to trade; (5) clarified that price bands would be set exchange-wide and not on a security-by-security basis; (6) specified the DLP's responsibilities in the proposed Initial ETP Open; and (7) clarified that the IPO Indicator will provide the same information in the Order Imbalance Indicator under this proposal. The changes and clarifications in Amendment No. 1 assist the Commission in evaluating the Exchange's proposal and do not materially change the terms of the Exchange's original proposal. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁵¹ to approve the proposed rule change, as modified by Amendment No. 1 on an accelerated basis.

⁵¹ Id.

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁵² that the proposed rule change (SR-NASDAQ-2025-011), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵³

Sherry R. Haywood,

Assistant Secretary.

⁵² Id.

⁵³ 17 CFR 200.30-3(a)(12).