

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106548; File No. SR-NASDAQ-2026-084]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Exchange Rule Equity 2, Section 9 Regarding Clearing and Settlement in Connection with 23-5 Trading

September 30, 2026.

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 28, 2026, 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, 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.

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

The Exchange proposes to amend Exchange Rule Equity 2, Section 9 to provide that, if a Member that trades in the Night Session³ clears transactions in the Night Session through another

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Rule Equity 1, Section 1(a)(19) (defining the term “Night Session” as the time between 9:00 p.m. on one calendar day through 4:00 a.m. the next calendar day Sunday through Thursday provided that each such next calendar day is a Business Day and further providing (1) that the Exchange shall not commence operation of the Night Session unless the Equity Data Plans have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session that is equivalent to the mechanism established for Exchange trading hours during Regular Market Hours, and have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to accommodate the Night Session; (2) that, prior to commencing operation during the Night Session, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder to amend its rules confirming that the Exchange is able to comply with its obligations under the Exchange Act and the rules thereunder during the Night Session and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session (“Night Session Proposed Rule Change”); and (3) that if the Night Session Proposed Rule Change

Member that is a member of a registered clearing agency, the designated Clearing Member⁴ must affirm to the Exchange in writing, through a letter of authorization, letter of guarantee, letter of consent, or any other agreement acceptable to the Exchange, its agreement to assume responsibility for clearing and settling any and all trades executed during the Night Session by the Member designating it as its clearing firm.⁵

The text of the proposed rule change is set forth below; proposed new language is italicized; deleted text is in brackets.

The text of the proposed rule change is available on the Exchange's Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

is not filed within 18 months of the SEC's approval of this proposed rule change, the Exchange will promptly file a proposed rule change to remove the rules that apply to the Night Session). See also Securities Exchange Act Release No. 34-105199 (April 10, 2026), 91 FR 20222 (April 15, 2026) ("23-5 Approval Order").

⁴ As proposed, the term "Clearing Member" would be defined as a member that is a member of a registered clearing agency. See proposed Exchange Rule Equity 2, Section 9.

⁵ See proposed Exchange Rule Equity 2, Section 9. On September 18, 2026, the Exchange filed a proposal to amend Exchange Rule Equity 2, Section 9 to provide that, if a Member that trades in the Night Session clears transactions in the Night Session through another Member that is a member of a registered clearing agency, the designated Clearing Member must affirm to the Exchange in writing, through a letter of authorization, letter of guarantee, letter of consent, or any other agreement acceptable to the Exchange, its agreement to assume responsibility for clearing and settling any and all trades executed during the Night Session by the Member designating it as its clearing firm ("SR-NASDAQ-2026-079"). On September 28, 2026, the Exchange withdrew SR-NASDAQ-2026-079 and replaced it with the present filing to make a clarifying change to the proposed rule text in Exhibit 5 by correcting the first reference to "Night" to read "Night Session." Specifically, the corrected sentence reads: "If a Member who seeks to trade in the Night Session clears transactions through another Member that is a member of a registered clearing agency (the 'Clearing Member'), the Clearing Member shall affirm to the Exchange in writing, through letter of authorization, letter of guarantee, letter of consent, or any other agreement acceptable to the Exchange, the Clearing Member's agreement to assume responsibility for clearing and settling any and all trades executed during the Night Session by the Member designating the Clearing Member as its clearing firm." Other than for this clarifying correction, the proposed rule text and substance of the filing remain unchanged.

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 Exchange Rule Equity 2, Section 9 to require that if a Member that trades in the Night Session clears transactions in the Night Session through another Member that is a member of a registered clearing agency, the Clearing Member must affirm to the Exchange in writing its agreement to assume responsibility for clearing and settling any and all trades executed during the Night Session by the Member designating it as its clearing firm. As proposed, the written affirmation may be provided through a letter of authorization, letter of guarantee, letter of consent, or any other agreement acceptable to the Exchange. Any such written affirmation would confirm the Clearing Member's agreement to assume clearing and settlement responsibility for Night Session trades executed by the designating Member.⁶

In connection with preparations for the commencement of 23-5 trading, and trading in the Night Session in particular,⁷ the Exchange has engaged with member organizations, including

⁶ As discussed above, the Exchange previously filed SR-NASDAQ-2026-079 on September 18, 2026. The Exchange is withdrawing that proposed rule change and replacing it with the present proposal to make a clarifying change to Exhibit 5 by correcting one reference to "Night" to read "Night Session." Other than for this clarifying correction, the proposed rule text and substance of the filing remain unchanged. See supra note 5 and accompanying text.

⁷ See supra note 3 and accompanying text.

clearing member firms, regarding the operational processes necessary to support overnight trading during the Night Session. Through those discussions, clearing member firms have indicated a desire to maintain greater control over which correspondent firms may use their clearing services during the Night Session. In particular, clearing member firms have explained that participation in overnight trading may involve operational, risk-management, and supervisory considerations that differ from those applicable during existing trading sessions and have requested a mechanism through which they may affirmatively identify the correspondents for whose Night Session trades they have agreed to assume clearing and settlement responsibility.

Unlike certain other trading venues, Nasdaq historically has relied upon existing National Securities Clearing Corporation (“NSCC”) relationship information and generally has not required separate clearing guarantees as a condition of trading. Because the Night Session represents a novel trading environment and clearing member firms have requested a mechanism to confirm the correspondents for whose Night Session trades they will assume clearing and settlement responsibility, the Exchange believes it is appropriate to require an affirmative written confirmation from the applicable Clearing Member before a Member may trade in the Night Session using that clearing relationship.

The proposed requirement is intended solely to provide clearing member firms with a means to manage and communicate confirmations regarding the correspondents for whose Night Session trades they have agreed to assume clearing and settlement responsibility. The proposal would not alter existing clearing relationships for trading conducted during other Exchange trading sessions and would not otherwise modify the rights or obligations of Members under Exchange rules. As discussed above, any such written affirmation would confirm only that the

Clearing Member has agreed to assume responsibility for clearing and settling Night Session trades executed by the designating Member. Actual trading during the Night Session would remain subject to the conditions set forth in Exchange Rule Equity 1, Section 1(a)(19).⁸

While actual trading pursuant to the proposed rule change will be subject to Exchange Rule Equity 1, Section 1(a)(19), the Exchange proposes to implement the proposed rule change as soon as practicable during the month of September 2026 to provide sufficient time for member onboarding and operational preparation in advance of the planned commencement of 23-5 trading in or about December 2026

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ 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.

In particular, the Exchange believes that the proposal furthers these objectives by fostering cooperation and coordination among the Exchange, Members, and clearing member firms in connection with the launch and operation of the Night Session. The proposal would require a Member that seeks to trade in the Night Session using a clearing relationship with another Member that is a member of a registered clearing agency to provide documentation affirming that the designated Clearing Member has agreed to assume responsibility for clearing and settling any and all trades executed during the Night Session by the designating Member. By

⁸ See supra note 3 and accompanying text.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

requiring such documentation before a Member may use that clearing relationship for Night Session trading, the proposal is designed to reduce uncertainty regarding clearing responsibility, support appropriate risk management by clearing member firms, and help ensure that Night Session activity occurs through clearing arrangements for which the applicable Clearing Member has affirmatively agreed to assume clearing and settlement responsibility. The proposed requirement would not itself permit a Member to commence trading during the Night Session; actual trading during the Night Session would remain subject to the conditions set forth in Exchange Rule Equity 1, Section 1(a)(19).

The Exchange further believes that the proposal promotes just and equitable principles of trade and protects investors and the public interest by supporting fair and orderly markets during the Night Session. As discussed above, clearing member firms have indicated that overnight trading may involve operational, risk-management, and supervisory considerations that differ from those applicable during existing trading sessions and have requested a mechanism through which they may identify the correspondents for whose Night Session trades they have agreed to assume clearing and settlement responsibility. The proposed requirement responds to those concerns by establishing a clear, limited process for confirming the applicable Clearing Member's agreement to assume clearing and settlement responsibility for Night Session trades executed by the designating Member.

The Exchange also believes that requiring an affirmative written confirmation of the Clearing Member's agreement to assume clearing and settlement responsibility for Night Session trades will enhance transparency with respect to clearing relationships, thereby supporting the Act's objectives of preventing fraudulent and manipulative acts and practices and promoting just and equitable principles of trade. The proposal is not designed to alter existing clearing

relationships generally, modify the substantive operation of the Exchange's trading system, or change the execution rules applicable to orders. Rather, it is a targeted operational safeguard designed to provide certainty regarding clearing responsibility for a trading session that presents operational considerations distinct from regular trading hours.

The Exchange also believes that the proposal is consistent with the Commission's approval of the Exchange's 23-5 trading framework.¹¹ In approving that framework, the Commission recognized that overnight trading presents operational and market-structure considerations that differ from those applicable during traditional trading hours and approved measures designed to address risks associated with Night Session trading.¹² The proposed requirement similarly is designed to facilitate the orderly commencement and operation of the Night Session by helping to ensure that trading activity conducted through another Member's clearing relationship occurs only where the applicable Clearing Member has affirmatively agreed to assume clearing and settlement responsibility for Night Session trades executed by the designating Member. Any such written affirmation would confirm only that the Clearing Member has agreed to assume responsibility for clearing and settling Night Session trades. Actual commencement of trading during the Night Session would remain subject to the conditions set forth in Exchange Rule Equity 1, Section 1(a)(19).

Finally, the Exchange believes the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system because it would promote an

¹¹ See 23-5 Approval Order, supra note 3.

¹² See 23-5 Approval Order, supra note 3, 91 FR at 20228, 20232 (noting that "the Exchange would require that its members make certain disclosures to investors concerning risks associated with trading during Pre-Market Hours, Post-Market and the Night Session"; that "[t]hese proposed disclosures will enhance transparency by warning customers that trading during these extended hours involves material trading risks, as outlined in the proposed rules"; and finding that "the Night Session will operate in a manner that is consistent with the Pre-Market Hours and Post-Market Hours sessions but will require additional customer disclosures about the potential risks of trading during the Night Session").

orderly implementation process for the Night Session. By providing clearing member firms with a mechanism to identify and confirm the correspondents for whose Night Session trades they will assume clearing and settlement responsibility in advance of launch, the proposal would reduce potential operational uncertainty and facilitate coordinated readiness among the Exchange, Members, and clearing member firms.

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 proposal applies uniformly to all Members seeking to trade in the Night Session through a clearing relationship with another Member. The proposal does not impose a categorical restriction on access to the Night Session. Rather, it requires only that a Member seeking to trade in the Night Session through another Member's clearing relationship provide documentation confirming that the designated Clearing Member has agreed to assume clearing and settlement responsibility for Night Session trades executed by the designating Member.

To the extent the proposal imposes any burden on competition, the Exchange believes such burden is necessary and appropriate because it is designed to facilitate prudent risk management by clearing member firms and the orderly operation of the Night Session.

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 Act¹³ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁴

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2026-084 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.

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 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-2026-084. 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 all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing 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-2026-084 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Sherry R. Haywood,

Assistant Secretary.

¹⁵ 17 CFR 200.30-3(a)(12).