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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2022 - * 073

Amendment No. (req. for Amendments *)

Filing by The Nasdaq Stock Market LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

A proposal to amend Equity 2 Section 4 and Section 5 and Section 11 related to certain Market Maker requirements

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Marsha Last Name * Dixon

Title * Associate General Counsel

E-mail * marsha.dixon@nasdaq.com

Telephone * (301) 978-8183 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, The Nasdaq Stock Market LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 12/02/2022


(Title *)

By John Zecca

EVP and Chief Legal Officer

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

 Date: 2022.12.02 16:20:56 -05'00'

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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SR-NASDAQ-2022-073 19b-4.doc

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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SR-NASDAQ-2022-073 Exhibit 1.doc

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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SR-NASDAQ-2022-073 Exhibit 5.doc

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend Equity 2, Section 4 (Registration as a Nasdaq Market Maker), Section 5 (Market Maker Obligations) and Section 11 (Voluntary Termination of Registration) related to certain Market Maker requirements.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors (the “Board”). Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Marsha T. Dixon
Associate General Counsel
Nasdaq, Inc.
(301) 978-8183

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

Equity 2 establishes rules for Nasdaq market participants. The Exchange is proposing to (1) amend Equity 2, Section 4 (Registration as a Nasdaq Market Maker) to require a Market Maker³ to provide written notice of termination as a Market Maker, (2) amend Equity 2, Section 11 (Voluntary Termination of Registration) to require a Market Maker to provide written notice of withdrawal of its two-sided quotations when terminating its registration in a security and to lower the time period for re-registering in a security, (3) update Equity 2, Section 5 (Market Maker Obligations) to eliminate certain provisions that are no longer applicable and to make a clarifying amendment, and (4) make non-substantive changes throughout these three sections.

Currently, the Exchange has no requirements for a Market Maker to provide notification prior to withdrawing its registration as a Market Maker. The lack of a notification process impedes the Exchange’s recordkeeping. Without formal written notice of withdrawal as a Market Maker, the Exchange is not always able to determine the specific date on which the Market Maker’s registration withdrawal became effective.

Therefore, the Exchange is proposing to adopt Equity 2, Section 4(d) to require a Market Maker to terminate its registration as a Market Maker by giving written notice to the Exchange. A Market Maker’s termination of registration will become immediately effective. A Market Maker who fails to notify Nasdaq in writing of its termination of

³ “Nasdaq Market Makers” or “Market Makers” are members that are registered as Nasdaq Market Makers for purposes of participation in the Nasdaq Market Center (or “System”) on a fully automated basis with respect to one or more System securities. See Nasdaq Equity 1, Section 1(a)(5)(B).

registration prior to such termination may be subject to formal disciplinary action pursuant to Nasdaq General 5. The written notification requirement is similar to another exchange.⁴ In conjunction with proposed Equity 2, Section 4(d), Nasdaq is also proposing to change the title of Section 4 to include “and Termination”.

Similarly, Equity 2, Section 11 does not require a Market Maker to provide written notification when terminating its registration in a specific security. Currently, a Market Maker may voluntarily terminate its registration in a security by withdrawing its two-sided quotation from the Nasdaq Market Center, but the Market Maker is not required to provide written notification of its withdrawal and termination. A lack of written notification of withdrawal limits the Exchange’s ability to effectively enforce its rules and ensure that Market Makers are complying with its rules. Additionally, the Market Maker that voluntarily terminates its registration in a specific security is prohibited from re-registering in that specific symbol for twenty business days in the case of Nasdaq-listed securities or for one business day in the case of intermarket trading system (“ITS”) securities.⁵ Lack of written notification inhibits the Exchange’s ability to monitor compliance with those requirements.

The Exchange is proposing to amend Equity 2, Section 11(a) to require a Market Maker to provide written notice that the Nasdaq Market Maker will withdraw its two-

⁴ See Cboe EDGX Exchange, Inc. Rule 11.17(d).

⁵ The rule text currently uses the term “ITS securities” but the Exchange is removing the language related to ITS because the ITS Plan no longer exists. See Securities Exchange Act Release No. 55397 (March 5, 2007), 72 FR 11066 (March 12, 2007) (Elimination of ITS Plan). Non-Nasdaq listed securities are currently subject to the one business day period that the rule specifically applies to ITS securities.

sided quotation from the Nasdaq Market Center. A Market Maker that fails to provide written notice of termination to Nasdaq prior to withdrawing its two-sided quotation may be subject to formal disciplinary action pursuant to Nasdaq General 5. Additionally, the Exchange is removing the time period distinction between Nasdaq-listed securities and non-Nasdaq listed securities by lowering the re-registration waiting period to five business days for Nasdaq-listed securities and increasing the re-registration waiting period to five business days for ITS (non-Nasdaq listed) securities. As a result of eliminating the waiting period distinction between Nasdaq-listed and non-Nasdaq listed securities, the Exchange is also proposing to remove references in this rule to the term “ITS securities”. Amending the waiting period and removing the distinction between Nasdaq and non-Nasdaq listed securities provides Market Makers with a more reasonable amount of time to re-register in the Nasdaq-listed security and aligns the waiting period irrespective of where the security is listed. Additionally, increasing the waiting period to re-register in a non-Nasdaq listed security will incentivize Market Makers to maintain their registrations and ongoing quoting obligations in non-Nasdaq listed securities without being overly burdensome. The written notification requirement for termination of registration in a security is similar to another exchange.⁶ The Exchange is also proposing to make non-substantive changes to Equity 2, Section 11(a) to remove redundant language, and to Equity 2, Section 11(b) to conform the language to Section 11(a).

⁶ See Cboe EDGX Exchange, Inc. Rule 11.19(b) (Similar to this proposal, Cboe EDGX requires written notice for voluntarily termination of registration in a security and may place other conditions on withdrawal and re-registration in a security; however, unlike this proposal, Cboe EDGX does not specify a waiting period for re-registration).

Additionally, the Exchange is proposing to amend Equity 2, Section 11(d) to clarify that a Nasdaq Market Maker will not be subject to formal disciplinary action for the failure to give written notice of withdrawal in a security to Nasdaq, if the Nasdaq Market Maker's two-sided quotation in the subject security is withdrawn by Nasdaq's systems due to an issuer corporate action related to a dividend, payment or distribution, or due to a trading halt, and if certain other conditions are satisfied. This change is a conforming change to the changes being made to Equity 2, Section 11(a). The Exchange is also proposing a non-substantive change to include the word "written" in Section 11(d)(3) to clarify that the Nasdaq Market Maker's request to enter a new two-sided quotation must be in writing.

Lastly, the Equity 2, Section 5 currently makes references to a Market Maker's and an Electronic Communications Network's ("ECN") use of a Primary MPID and additional MPIDs ("Supplemental MPIDs"). By way of background, in 2003, the Exchange made additional MPIDs available to Market Makers and ECNs as a pilot program to allow Market Makers to contribute more liquidity and better manage order flow.⁷ The program became permanent in 2008 and removed any restrictions on the number of Supplemental MPIDs that a Market Maker or ECN could obtain.⁸ If a Market Maker or ECN failed to fulfill the obligations appurtenant to its primary MPID (e.g., by

⁷ Supplemental MPIDs were initially referred to as "Secondary MMIDs." See Securities Exchange Act Release No. 47954 (May 30, 2003), 68 FR 34017 (June 6, 2003) (SR-NASD-2003-87). However, in 2004, the term was changed to "Supplemental MPIDs." See Securities Exchange Act Release Nos. 49471 (March 25, 2004), 69 FR 17006 (March 31, 2004) (SR-NASD-2004-037); 50140 (August 3, 2004), 69 FR 48535 (August 10, 2004) (SR-NASD-2004-097).

⁸ See Securities Exchange Act Release No. 57452 (March 7, 2008), 73 FR 13596 (March 13, 2008) (SR-NASDAQ-2008-004) (Approval Order).

being placed into an unexcused withdrawal), it would not be permitted to use any Supplemental MPIDs for any purpose in that security.⁹ Member firms were also assessed a monthly fee for each Supplemental MPID issued by the Exchange, unless the Supplemental MPIDs were used exclusively for reporting information to facilities of the Financial Industry Regulatory Authority (“FINRA”) (e.g., FINRA/Nasdaq Trade Reporting Facility).¹⁰ The Exchange subsequently eliminated the distinction between Primary and Supplemental MPIDs and began assessing the same fee per month, per MPID.¹¹

The Exchange does not believe that it is necessary to draw a distinction between the terms “Primary MPID” and “Supplemental MPID” in its rule because a Market Maker is required to fulfill its quoting obligations and comply with applicable self-regulatory organization and Commission rules in all MPIDs that the Market Maker has registered with the Exchange as a Market Maker MPID. Therefore, the Exchange is proposing to remove discussion of the terms by deleting Equity 2, Section 5(a)(2)(J) and Section 5(a)(2)(K) because the Exchange no longer distinguishes between Primary and Supplemental MPIDs.¹² Moreover, the Exchange believes that removing references to

⁹ Id.

¹⁰ See Securities Exchange Act Release No. 62564 (July 23, 2010), 75 FR 44830 (July 29, 2010) (SR-NASDAQ-2010-089).

¹¹ See Securities Exchange Act Release No. 73705 (December 1, 2014), 79 FR 47221 (December 5, 2014) (SR-Nasdaq-2014-118). The Exchange currently assesses a \$550 per month fee, per MPID. See Nasdaq Equity 7, Section 10.

¹² Nasdaq Equity 2, Section 5(a)(2)(J) and Section 5(a)(2)(K) also discuss the term “ECN.” The Exchange is also removing discussions of the term because the Exchange no longer distinguishes between Primary and Supplemental MPIDs for

these terms will provide further clarification that a Market Maker must satisfy its Two-Sided Quoting Obligations, and comply with excused withdrawal procedures for all MPIDs that it has registered as a Market Maker MPID. Moreover, even though the Exchange is proposing to delete Equity 2, Section 5(a)(2)(K), to the extent a Nasdaq member wishes to engage in passive market making or enter a stabilizing bid on the Exchange, the member must continue to comply with all Nasdaq (Equity 2, Sections 6 and 10), FINRA and SEC rules that govern passive market making and stabilizing bids, even if the Nasdaq member generally uses multiple MPIDs.

The Exchange is also proposing to clarify in Equity 2, Section 5(a)(1) that only Attributable Quotes/Orders are eligible to meet a Market Maker's Two-Sided Quoting Obligation, which is current practice. Additionally, the Exchange is proposing to remove language from Section 5(a)(1) that reiterates that a Market Maker may augment its Two-Sided Obligation size to display similarly priced limit orders priced at the same price as the Two-Sided Obligation. The Exchange also believes that Section 5(a)(1) already makes clear that the minimum displayed quotation size must be at least one normal unit of trading. Therefore, the additional explanation regarding augmentation of a Market Maker's Two-Sided Obligation size is redundant and may cause confusion to the Market Maker requirements under Section 5(a)(1). Therefore, the Exchange's proposal to remove the explanatory language will help to clarify Section 5(a)(1). Additionally, the Exchange is proposing to make a non-substantive conforming change to make the term "Nasdaq Market Maker" consistent throughout Equity 2, Sections 4, 5 and 11.

ECNs. Therefore, all MPIDs of ECNs would be required to comply with applicable rules.

b. Statutory Basis

The Exchange believes that this proposal is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁴ 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. Ensuring that the Exchange can effectively surveil for and pursue disciplinary actions when market participants are not operating in accordance with its rules is of the utmost importance to the Exchange. Therefore, from time to time, the Exchange will review its rulebook to amend any rules that use obsolete concepts or terms, or that make it difficult to take disciplinary actions against market participants who are in violation of the Exchange's rules. The Exchange believes that the proposed amendments will provide market participants with a clearer understanding of the Exchange's rules related to registration and obligations as a Nasdaq Market Maker, voluntary termination of registration as a Market Maker in a security, and termination of registration in a security due to accidental withdrawal of the Market Maker's two-sided quotations in a security.

In particular, the Exchange believes that proposed Equity 2, Section 4(d) is reasonable because without receiving formal written notice from the Market Maker, the Exchange is not always able to determine the specific date on which the Market Maker's terminated registration became effective. The Exchange's proposal to require a Market Maker to provide written notice of termination of its registration as a Market Maker will

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

allow the Exchange to improve its recordkeeping process and ensure that its Market Makers are adhering to the Exchange's Market Maker rules. Additionally, the Exchange's rule is similar to rules established by another exchange.¹⁵

For similar reasons, the Exchange believes that it is reasonable to require a Market Maker to provide written notice of its termination of registration in a security prior to withdrawing its two-sided quotation from the Nasdaq Market Center pursuant to proposed Equity 2, Section 11(a). Requiring a Market Maker to provide formal written notice of its voluntary termination of registration in a security will allow the Exchange to improve its surveillance by gaining a clearer understanding of when a Market Maker has voluntarily terminated its registration in a security and when it is simply not meeting its Market Maker obligations. This also allows the Exchange to know when to take formal disciplinary action against a Market Maker that fails to meet its Two-Sided Quoting Obligations in a particular security and also fails to provide the Exchange with written notice of its termination of registration in a security. The notice requirement is also similar to another exchange.¹⁶ The Exchange also believes that lowering the re-registration waiting period to five business days for Nasdaq-listed securities provides Market Makers with a more reasonable amount of time to re-register in the Nasdaq-listed security than the previous twenty business day period, and increasing the waiting period to re-register in a non-Nasdaq listed security will incentivize Market Makers to maintain ongoing quoting obligations in non-Nasdaq listed securities without being overly

¹⁵ See Cboe EDGX Exchange, Inc. Rule 11.17(d).

¹⁶ See Cboe EDGX Exchange, Inc. Rule 11.19(b) (Although Cboe EDGX requires written notice and may place other conditions on re-registration in a security, the exchange does not specify a waiting period for re-registration).

burdensome. Moreover, the Exchange believes that it is reasonable to make conforming changes in Equity 2, Section 11(d) to provide that a Market Maker will not be subject to formal disciplinary action for failing to provide written notification of termination of registration in a security when the Market Maker's two-sided quotation in the security is withdrawn by Nasdaq's systems due to certain circumstances. The Exchange does not believe that a Market Maker should be subject to disciplinary action for not providing prior notice of withdrawal in those circumstances because the termination was not within the control of the Market Maker.

The Exchange also believes that it is important to periodically update its rules and remove language that has the potential for causing discrepancies or confusion. The Exchange no longer distinguishes between Primary and Supplemental MPIDs for ECNs. Additionally, ECNs registered as Market Makers on the Exchange are required to follow the same Quoting Obligation rules as Market Makers. Therefore, removing references to ECNs from Equity 2, Section 5(a)(2) will update and clarify the rule. Moreover, a Market Maker is required to fulfill its quoting obligations in all MPIDs that the Market Maker has registered with the Exchange, and the Exchange no longer makes the distinction between Primary and Supplemental MPIDs for Market Makers. Therefore, the Exchange believes eliminating the differentiation between the terms "Supplemental MPID" and "Primary MPID" by removing discussions of the terms in Equity 2, Section 5(a)(2)(J) and Section 5(a)(2)(K) will eliminate confusion about which MPIDs are required to meet a Market Maker's Two-Sided Quoting Obligations and comply with the excused withdrawal procedures and allow the Exchange to improve its surveillance of

any Market Maker that fails to meet its obligations.¹⁷ Furthermore, the Exchange has already eliminated this distinction of these terms in its fees by assessing the same fee per month, per MPID.

Additionally, Market Makers are already aware that only Attributable Quotes/Orders may satisfy the Two-Sided Quoting Obligation. Therefore, the Exchange's proposal to add the term Attributable Quotes/Orders to Equity 2, Section 5(a)(1) is merely an update to align the Exchange's rules with the understanding of market participants. Moreover, Section 5(a)(1) makes clear that the minimum displayed quotation size for a Market Maker's Two-Sided Obligation must be at least one normal unit of trading. Therefore, the Exchange believes that the additional explanation regarding augmentation of a Market Maker's Two-Sided Obligation size is redundant and may cause confusion to the Market Maker requirements under Section 5(a)(1). Therefore, the Exchange's proposal to remove the explanatory language will help to clarify Section 5(a)(1).

Lastly, the Exchange is also proposing technical changes to (1) Equity 2, Section 4, to include the word "termination" within the title; (2) Equity 2, Section 11 to remove the term "voluntary" and include the phrase "in a security" within the title; and (3) Equity 2 Sections 4, 5 and 11 to use the term "Nasdaq Market Maker" throughout. The Exchange believes that these changes will provide consistency and clarity throughout these sections of the rule text.

¹⁷ To the extent a Nasdaq member wishes to engage in passive market making or enter a stabilizing bid on the Exchange, the member must continue to comply with all Nasdaq (Equity 2, Sections 6 and 10), FINRA and SEC rules that govern passive market making and stabilizing bids, even if the Nasdaq member generally uses multiple MPIDs.

4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Every market participant who chooses to register as a Market Maker on the Exchange is required to meet the Exchange's Market Maker obligations. Furthermore, the proposals will help to update and correct the Exchange's Market Maker obligations by removing references to Primary MPID and Supplemental MPID, thereby eliminating confusion about which MPIDs are required to meet a Market Maker's Two-Sided Quoting Obligations and excused withdrawal procedures.

Also, the removal of obsolete language such as ITS and explanatory language related to a Market Maker augmenting its Two-Sided Obligation size, and the addition of the term Attributable Quotes/Orders, would not impose a burden on competition and the proposed changes would provide clarification to the Exchange's Market Maker obligations and reflect current practice.

In addition, the Exchange does not believe that aligning the waiting periods to re-register in a specific security irrespective of where the security is listed would cause any burden on competition because, as discussed above, increasing the waiting period to re-register in a non-Nasdaq listed security will incentivize Market Makers to maintain their registrations and ongoing quoting obligations in non-Nasdaq listed securities while decreasing the waiting period to re-register in a Nasdaq-listed security would decrease the burden on Market Makers.

Moreover, the Exchange does not believe that the removal of references to Primary and Secondary MPID will impose any burden on competition because to the extent a Nasdaq member wishes to engage in passive market making or enter a stabilizing

bid on the Exchange, it must continue to comply with all Nasdaq (Equity 2, Sections 6 and 10), FINRA and SEC rules that govern passive market making and stabilizing bids.

Additionally, as discussed above, similar notification provisions for termination of Market Maker registration and voluntary termination of registration in a specific security currently exist on another exchange. These notification requirements are intended to better allow the Exchange to enforce Market Maker compliance with applicable rules.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)¹⁸ of the Act and Rule 19b-4(f)(6) thereunder¹⁹ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 17 CFR 240.19b-4(f)(6).

The Exchange does not believe that the proposals significantly affect the protection of investors or the public interest, or impose any significant burden on competition. The proposed changes will improve the Exchange's recordkeeping of the registration status of currently registered Market Makers, improve the surveillance of Market Maker compliance with applicable rules, and provide a more consistent and reasonable amount of time for a Market Maker to re-register in a security. The proposed changes also provide further clarification to the rules and the applicability of Market Maker Obligations. Additionally, the proposal to remove redundant and obsolete language and to add the term Attributable Quotes/Orders in Equity 2, Section 5, clarifies the Exchange's Market Maker obligations that every market participant that chooses to register as a Market Maker on the Exchange will be required to adhere to the Two-Sided Quoting Obligations and other rules applicable to Market Makers. Moreover, the Exchange's proposed rules regarding written notification are similar to rules established by another exchange. Lastly, the proposed technical changes will provide consistency and clarity throughout the rules.

Furthermore, Rule 19b-4(f)(6)(iii)²⁰ requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed requirement for a Market Maker to provide written notice of withdrawal of its registration as a Market Maker pursuant to Equity 2, Section 4(d) is similar to Cboe EDGX Exchange, Inc. Rule 11.17(d) and the proposed requirement for a Market Maker to provide written notice of withdrawal of its registration in a security pursuant to Equity 2, Section 11(d) is similar to Cboe EDGX Exchange, Inc. Rule 11.19(b).

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.
5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2022-073)

December __, 2022

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Market Maker Requirements in Equity 2 Section 4, Equity 2 Section 5 and Equity 2 Section 11

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 December 2, 2022, 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 Equity 2, Section 4, Section 5 and Section 11 related to certain Market Maker requirements, as described further below.

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

¹ 15 U.S.C. 78s(b)(1).

² 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

Equity 2 establishes rules for Nasdaq market participants. The Exchange is proposing to (1) amend Equity 2, Section 4 (Registration as a Nasdaq Market Maker) to require a Market Maker³ to provide written notice of termination as a Market Maker, (2) amend Equity 2, Section 11 (Voluntary Termination of Registration) to require a Market Maker to provide written notice of withdrawal of its two-sided quotations when terminating its registration in a security and to lower the time period for re-registering in a security, (3) update Equity 2, Section 5 (Market Maker Obligations) to eliminate certain provisions that are no longer applicable and to make a clarifying amendment, and (4) make non-substantive changes throughout these three sections.

Currently, the Exchange has no requirements for a Market Maker to provide notification prior to withdrawing its registration as a Market Maker. The lack of a notification process impedes the Exchange’s recordkeeping. Without formal written

³ “Nasdaq Market Makers” or “Market Makers” are members that are registered as Nasdaq Market Makers for purposes of participation in the Nasdaq Market Center (or “System”) on a fully automated basis with respect to one or more System securities. See Nasdaq Equity 1, Section 1(a)(5)(B).

notice of withdrawal as a Market Maker, the Exchange is not always able to determine the specific date on which the Market Maker's registration withdrawal became effective.

Therefore, the Exchange is proposing to adopt Equity 2, Section 4(d) to require a Market Maker to terminate its registration as a Market Maker by giving written notice to the Exchange. A Market Maker's termination of registration will become immediately effective. A Market Maker who fails to notify Nasdaq in writing of its termination of registration prior to such termination may be subject to formal disciplinary action pursuant to Nasdaq General 5. The written notification requirement is similar to another exchange.⁴ In conjunction with proposed Equity 2, Section 4(d), Nasdaq is also proposing to change the title of Section 4 to include "and Termination".

Similarly, Equity 2, Section 11 does not require a Market Maker to provide written notification when terminating its registration in a specific security. Currently, a Market Maker may voluntarily terminate its registration in a security by withdrawing its two-sided quotation from the Nasdaq Market Center, but the Market Maker is not required to provide written notification of its withdrawal and termination. A lack of written notification of withdrawal limits the Exchange's ability to effectively enforce its rules and ensure that Market Makers are complying with its rules. Additionally, the Market Maker that voluntarily terminates its registration in a specific security is prohibited from re-registering in that specific symbol for twenty business days in the case of Nasdaq-listed securities or for one business day in the case of intermarket trading

⁴ See Cboe EDGX Exchange, Inc. Rule 11.17(d).

system (“ITS”) securities.⁵ Lack of written notification inhibits the Exchange’s ability to monitor compliance with those requirements.

The Exchange is proposing to amend Equity 2, Section 11(a) to require a Market Maker to provide written notice that the Nasdaq Market Maker will withdraw its two-sided quotation from the Nasdaq Market Center. A Market Maker that fails to provide written notice of termination to Nasdaq prior to withdrawing its two-sided quotation may be subject to formal disciplinary action pursuant to Nasdaq General 5. Additionally, the Exchange is removing the time period distinction between Nasdaq-listed securities and non-Nasdaq listed securities by lowering the re-registration waiting period to five business days for Nasdaq-listed securities and increasing the re-registration waiting period to five business days for ITS (non-Nasdaq listed) securities. As a result of eliminating the waiting period distinction between Nasdaq-listed and non-Nasdaq listed securities, the Exchange is also proposing to remove references in this rule to the term “ITS securities”. Amending the waiting period and removing the distinction between Nasdaq and non-Nasdaq listed securities provides Market Makers with a more reasonable amount of time to re-register in the Nasdaq-listed security and aligns the waiting period irrespective of where the security is listed. Additionally, increasing the waiting period to re-register in a non-Nasdaq listed security will incentivize Market Makers to maintain their registrations and ongoing quoting obligations in non-Nasdaq listed securities without being overly burdensome. The written notification requirement for termination

⁵ The rule text currently uses the term “ITS securities” but the Exchange is removing the language related to ITS because the ITS Plan no longer exists. See Securities Exchange Act Release No. 55397 (March 5, 2007), 72 FR 11066 (March 12, 2007) (Elimination of ITS Plan). Non-Nasdaq listed securities are currently subject to the one business day period that the rule specifically applies to ITS securities.

of registration in a security is similar to another exchange.⁶ The Exchange is also proposing to make non-substantive changes to Equity 2, Section 11(a) to remove redundant language, and to Equity 2, Section 11(b) to conform the language to Section 11(a).

Additionally, the Exchange is proposing to amend Equity 2, Section 11(d) to clarify that a Nasdaq Market Maker will not be subject to formal disciplinary action for the failure to give written notice of withdrawal in a security to Nasdaq, if the Nasdaq Market Maker's two-sided quotation in the subject security is withdrawn by Nasdaq's systems due to an issuer corporate action related to a dividend, payment or distribution, or due to a trading halt, and if certain other conditions are satisfied. This change is a conforming change to the changes being made to Equity 2, Section 11(a). The Exchange is also proposing a non-substantive change to include the word "written" in Section 11(d)(3) to clarify that the Nasdaq Market Maker's request to enter a new two-sided quotation must be in writing.

Lastly, the Equity 2, Section 5 currently makes references to a Market Maker's and an Electronic Communications Network's ("ECN") use of a Primary MPID and additional MPIDs ("Supplemental MPIDs"). By way of background, in 2003, the Exchange made additional MPIDs available to Market Makers and ECNs as a pilot program to allow Market Makers to contribute more liquidity and better manage order

⁶ See Cboe EDGX Exchange, Inc. Rule 11.19(b) (Similar to this proposal, Cboe EDGX requires written notice for voluntarily termination of registration in a security and may place other conditions on withdrawal and re-registration in a security; however, unlike this proposal, Cboe EDGX does not specify a waiting period for re-registration).

flow.⁷ The program became permanent in 2008 and removed any restrictions on the number of Supplemental MPIDs that a Market Maker or ECN could obtain.⁸ If a Market Maker or ECN failed to fulfill the obligations appurtenant to its primary MPID (e.g., by being placed into an unexcused withdrawal), it would not be permitted to use any Supplemental MPIDs for any purpose in that security.⁹ Member firms were also assessed a monthly fee for each Supplemental MPID issued by the Exchange, unless the Supplemental MPIDs were used exclusively for reporting information to facilities of the Financial Industry Regulatory Authority (“FINRA”) (e.g., FINRA/Nasdaq Trade Reporting Facility).¹⁰ The Exchange subsequently eliminated the distinction between Primary and Supplemental MPIDs and began assessing the same fee per month, per MPID.¹¹

The Exchange does not believe that it is necessary to draw a distinction between the terms “Primary MPID” and “Supplemental MPID” in its rule because a Market Maker is required to fulfill its quoting obligations and comply with applicable self-

⁷ Supplemental MPIDs were initially referred to as “Secondary MMIDs.” See Securities Exchange Act Release No. 47954 (May 30, 2003), 68 FR 34017 (June 6, 2003) (SR-NASD-2003-87). However, in 2004, the term was changed to “Supplemental MPIDs.” See Securities Exchange Act Release Nos. 49471 (March 25, 2004), 69 FR 17006 (March 31, 2004) (SR-NASD-2004-037); 50140 (August 3, 2004), 69 FR 48535 (August 10, 2004) (SR-NASD-2004-097).

⁸ See Securities Exchange Act Release No. 57452 (March 7, 2008), 73 FR 13596 (March 13, 2008) (SR-NASDAQ-2008-004) (Approval Order).

⁹ Id.

¹⁰ See Securities Exchange Act Release No. 62564 (July 23, 2010), 75 FR 44830 (July 29, 2010) (SR-NASDAQ-2010-089).

¹¹ See Securities Exchange Act Release No. 73705 (December 1, 2014), 79 FR 47221 (December 5, 2014) (SR-Nasdaq-2014-118). The Exchange currently assesses a \$550 per month fee, per MPID. See Nasdaq Equity 7, Section 10.

regulatory organization and Commission rules in all MPIDs that the Market Maker has registered with the Exchange as a Market Maker MPID. Therefore, the Exchange is proposing to remove discussion of the terms by deleting Equity 2, Section 5(a)(2)(J) and Section 5(a)(2)(K) because the Exchange no longer distinguishes between Primary and Supplemental MPIDs.¹² Moreover, the Exchange believes that removing references to these terms will provide further clarification that a Market Maker must satisfy its Two-Sided Quoting Obligations, and comply with excused withdrawal procedures for all MPIDs that it has registered as a Market Maker MPID. Moreover, even though the Exchange is proposing to delete Equity 2, Section 5(a)(2)(K), to the extent a Nasdaq member wishes to engage in passive market making or enter a stabilizing bid on the Exchange, the member must continue to comply with all Nasdaq (Equity 2, Sections 6 and 10), FINRA and SEC rules that govern passive market making and stabilizing bids, even if the Nasdaq member generally uses multiple MPIDs.

The Exchange is also proposing to clarify in Equity 2, Section 5(a)(1) that only Attributable Quotes/Orders are eligible to meet a Market Maker's Two-Sided Quoting Obligation, which is current practice. Additionally, the Exchange is proposing to remove language from Section 5(a)(1) that reiterates that a Market Maker may augment its Two-Sided Obligation size to display similarly priced limit orders priced at the same price as the Two-Sided Obligation. The Exchange also believes that Section 5(a)(1) already makes clear that the minimum displayed quotation size must be at least one normal unit

¹² Nasdaq Equity 2, Section 5(a)(2)(J) and Section 5(a)(2)(K) also discuss the term "ECN." The Exchange is also removing discussions of the term because the Exchange no longer distinguishes between Primary and Supplemental MPIDs for ECNs. Therefore, all MPIDs of ECNs would be required to comply with applicable rules.

of trading. Therefore, the additional explanation regarding augmentation of a Market Maker's Two-Sided Obligation size is redundant and may cause confusion to the Market Maker requirements under Section 5(a)(1). Therefore, the Exchange's proposal to remove the explanatory language will help to clarify Section 5(a)(1). Additionally, the Exchange is proposing to make a non-substantive conforming change to make the term "Nasdaq Market Maker" consistent throughout Equity 2, Sections 4, 5 and 11.

2. Statutory Basis

The Exchange believes that this proposal is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁴ 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. Ensuring that the Exchange can effectively surveil for and pursue disciplinary actions when market participants are not operating in accordance with its rules is of the utmost importance to the Exchange. Therefore, from time to time, the Exchange will review its rulebook to amend any rules that use obsolete concepts or terms, or that make it difficult to take disciplinary actions against market participants who are in violation of the Exchange's rules. The Exchange believes that the proposed amendments will provide market participants with a clearer understanding of the Exchange's rules related to registration and obligations as a Nasdaq Market Maker, voluntary termination of registration as a

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

Market Maker in a security, and termination of registration in a security due to accidental withdrawal of the Market Maker's two-sided quotations in a security.

In particular, the Exchange believes that proposed Equity 2, Section 4(d) is reasonable because without receiving formal written notice from the Market Maker, the Exchange is not always able to determine the specific date on which the Market Maker's terminated registration became effective. The Exchange's proposal to require a Market Maker to provide written notice of termination of its registration as a Market Maker will allow the Exchange to improve its recordkeeping process and ensure that its Market Makers are adhering to the Exchange's Market Maker rules. Additionally, the Exchange's rule is similar to rules established by another exchange.¹⁵

For similar reasons, the Exchange believes that it is reasonable to require a Market Maker to provide written notice of its termination of registration in a security prior to withdrawing its two-sided quotation from the Nasdaq Market Center pursuant to proposed Equity 2, Section 11(a). Requiring a Market Maker to provide formal written notice of its voluntary termination of registration in a security will allow the Exchange to improve its surveillance by gaining a clearer understanding of when a Market Maker has voluntarily terminated its registration in a security and when it is simply not meeting its Market Maker obligations. This also allows the Exchange to know when to take formal disciplinary action against a Market Maker that fails to meet its Two-Sided Quoting Obligations in a particular security and also fails to provide the Exchange with written notice of its termination of registration in a security. The notice requirement is also

¹⁵ See Cboe EDGX Exchange, Inc. Rule 11.17(d).

similar to another exchange.¹⁶ The Exchange also believes that lowering the re-registration waiting period to five business days for Nasdaq-listed securities provides Market Makers with a more reasonable amount of time to re-register in the Nasdaq-listed security than the previous twenty business day period, and increasing the waiting period to re-register in a non-Nasdaq listed security will incentivize Market Makers to maintain ongoing quoting obligations in non-Nasdaq listed securities without being overly burdensome. Moreover, the Exchange believes that it is reasonable to make conforming changes in Equity 2, Section 11(d) to provide that a Market Maker will not be subject to formal disciplinary action for failing to provide written notification of termination of registration in a security when the Market Maker's two-sided quotation in the security is withdrawn by Nasdaq's systems due to certain circumstances. The Exchange does not believe that a Market Maker should be subject to disciplinary action for not providing prior notice of withdrawal in those circumstances because the termination was not within the control of the Market Maker.

The Exchange also believes that it is important to periodically update its rules and remove language that has the potential for causing discrepancies or confusion. The Exchange no longer distinguishes between Primary and Supplemental MPIDs for ECNs. Additionally, ECNs registered as Market Makers on the Exchange are required to follow the same Quoting Obligation rules as Market Makers. Therefore, removing references to ECNs from Equity 2, Section 5(a)(2) will update and clarify the rule. Moreover, a Market Maker is required to fulfill its quoting obligations in all MPIDs that the Market

¹⁶ See Cboe EDGX Exchange, Inc. Rule 11.19(b) (Although Cboe EDGX requires written notice and may place other conditions on re-registration in a security, the exchange does not specify a waiting period for re-registration).

Maker has registered with the Exchange, and the Exchange no longer makes the distinction between Primary and Supplemental MPIDs for Market Makers. Therefore, the Exchange believes eliminating the differentiation between the terms “Supplemental MPID” and “Primary MPID” by removing discussions of the terms in Equity 2, Section 5(a)(2)(J) and Section 5(a)(2)(K) will eliminate confusion about which MPIDs are required to meet a Market Maker’s Two-Sided Quoting Obligations and comply with the excused withdrawal procedures and allow the Exchange to improve its surveillance of any Market Maker that fails to meet its obligations.¹⁷ Furthermore, the Exchange has already eliminated this distinction of these terms in its fees by assessing the same fee per month, per MPID.

Additionally, Market Makers are already aware that only Attributable Quotes/Orders may satisfy the Two-Sided Quoting Obligation. Therefore, the Exchange’s proposal to add the term Attributable Quotes/Orders to Equity 2, Section 5(a)(1) is merely an update to align the Exchange’s rules with the understanding of market participants. Moreover, Section 5(a)(1) makes clear that the minimum displayed quotation size for a Market Maker’s Two-Sided Obligation must be at least one normal unit of trading. Therefore, the Exchange believes that the additional explanation regarding augmentation of a Market Maker’s Two-Sided Obligation size is redundant and may cause confusion to the Market Maker requirements under Section 5(a)(1).

¹⁷ To the extent a Nasdaq member wishes to engage in passive market making or enter a stabilizing bid on the Exchange, the member must continue to comply with all Nasdaq (Equity 2, Sections 6 and 10), FINRA and SEC rules that govern passive market making and stabilizing bids, even if the Nasdaq member generally uses multiple MPIDs.

Therefore, the Exchange's proposal to remove the explanatory language will help to clarify Section 5(a)(1).

Lastly, the Exchange is also proposing technical changes to (1) Equity 2, Section 4, to include the word "termination" within the title; (2) Equity 2, Section 11 to remove the term "voluntary" and include the phrase "in a security" within the title; and (3) Equity 2 Sections 4, 5 and 11 to use the term "Nasdaq Market Maker" throughout. The Exchange believes that these changes will provide consistency and clarity throughout these sections of the rule text.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Every market participant who chooses to register as a Market Maker on the Exchange is required to meet the Exchange's Market Maker obligations. Furthermore, the proposals will help to update and correct the Exchange's Market Maker obligations by removing references to Primary MPID and Supplemental MPID, thereby eliminating confusion about which MPIDs are required to meet a Market Maker's Two-Sided Quoting Obligations and excused withdrawal procedures.

Also, the removal of obsolete language such as ITS and explanatory language related to a Market Maker augmenting its Two-Sided Obligation size, and the addition of the term Attributable Quotes/Orders, would not impose a burden on competition and the proposed changes would provide clarification to the Exchange's Market Maker obligations and reflect current practice.

In addition, the Exchange does not believe that aligning the waiting periods to re-register in a specific security irrespective of where the security is listed would cause any

burden on competition because, as discussed above, increasing the waiting period to re-register in a non-Nasdaq listed security will incentivize Market Makers to maintain their registrations and ongoing quoting obligations in non-Nasdaq listed securities while decreasing the waiting period to re-register in a Nasdaq-listed security would decrease the burden on Market Makers.

Moreover, the Exchange does not believe that the removal of references to Primary and Secondary MPID will impose any burden on competition because to the extent a Nasdaq member wishes to engage in passive market making or enter a stabilizing bid on the Exchange, it must continue to comply with all Nasdaq (Equity 2, Sections 6 and 10), FINRA and SEC rules that govern passive market making and stabilizing bids.

Additionally, as discussed above, similar notification provisions for termination of Market Maker registration and voluntary termination of registration in a specific security currently exist on another exchange. These notification requirements are intended to better allow the Exchange to enforce Market Maker compliance with applicable rules.

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

No written comments were either solicited or received.

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

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

to Section 19(b)(3)(A)(iii) of the Act¹⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁹

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2022-073 on the subject line.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 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.

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-2022-073. 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 Web site (<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; 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-2022-073 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.²⁰

J. Matthew DeLesDernier
Assistant Secretary

²⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Deleted text is [bracketed]. New text is underlined.

The Nasdaq Stock Market LLC Rules

* * * * *

Equity 2 Market Participants

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Section 4. Registration and Termination as a Nasdaq Market Maker

(a) Quotations and quotation sizes may be entered into the Nasdaq Market Center only by a member registered as a Nasdaq Market Maker or other entity approved by Nasdaq to function in a market-making capacity.

(b) A Nasdaq Market Maker may become registered in an issue by entering a registration request via a Nasdaq approved electronic interface with Nasdaq's systems or by contacting Nasdaq Market Operations. Registration shall become effective on the day the registration request is entered.

(c) A Nasdaq Market Maker's registration in an issue shall be terminated by Nasdaq if the Nasdaq [m]Market [m]Maker fails to enter quotations in the issue within five (5) business days after the Nasdaq [m]Market [m]Maker's registration in the issue becomes effective.

(d) A Nasdaq Market Maker may terminate its registration as a Nasdaq Market Maker by giving written notice to Nasdaq. A Nasdaq Market Maker's termination of registration shall become immediately effective. A Nasdaq Market Maker that fails to notify Nasdaq in writing of its termination prior to such termination may be subject to formal disciplinary action pursuant to Nasdaq General 5.

Section 5. Market Maker Obligations

A member registered as a Nasdaq Market Maker shall engage in a course of dealings for its own account to assist in the maintenance, insofar as reasonably practicable, of fair and orderly markets in accordance with this Rule.

(a) Quotation Requirements and Obligations

(1) Two-Sided Quote Obligation. For each security in which a member is registered as a Nasdaq Market Maker, the member shall be willing to buy and sell such security for its own account on a continuous basis during regular market hours and shall enter and maintain a two-sided trading interest ("Two-Sided Obligation") that is identified to the Exchange as the interest meeting the obligation and is displayed in the

Exchange's quotation montage at all times. Interest eligible to be considered as part of a Nasdaq Market Maker's Two-Sided Obligation shall be Attributable Quotes/Orders that have a displayed quotation size of at least one normal unit of trading [(or a larger multiple thereof); provided, however, that a Market Maker may augment its Two-Sided Obligation size to display limit orders priced at the same price as the Two-Sided Obligation]. Unless otherwise designated, a "normal unit of trading" shall be 100 shares. After an execution against its Two-Sided Obligation, a Nasdaq Market Maker must ensure that additional trading interest exists in the Exchange to satisfy its Two-Sided Obligation either by immediately entering new interest to comply with this obligation to maintain continuous two-sided quotations or by identifying existing interest on the Exchange book that will satisfy this obligation.

(2) Pricing Obligations. For NMS stocks (as defined in Rule 600 under Regulation NMS) a Nasdaq Market Maker shall adhere to the pricing obligations established by this Rule during Regular Trading Hours; provided, however, that such pricing obligations (i) shall not commence during any trading day until after the first regular way transaction on the primary listing market in the security, as reported by the responsible single plan processor, and (ii) shall be suspended during a trading halt, suspension, or pause, and shall not re-commence until after the first regular way transaction on the primary listing market in the security following such halt, suspension, or pause, as reported by the responsible single plan processor

(A) – (I) No change.

[(J) The individual Market Participant Identifier ("MPID") assigned to a member to meet its Two-Sided Obligation pursuant to subparagraph (a)(1) of this Rule, or Equity 2, Section 14, shall be referred to as the member's "Primary MPID." Market Makers and ECNs may request the use of additional MPIDs that shall be referred to as "Supplemental MPIDs." A Market Maker may request the use of Supplemental MPIDs for displaying Attributable Quotes/Orders in the Nasdaq Quotation Montage for any security in which it is registered and meets the obligations set forth in subparagraph (1) of this rule. An ECN may request the use of Supplemental MPIDs for displaying Attributable Quotes/Orders in the Nasdaq Quotation Montage for any security in which it meets the obligations set forth in Equity 2, Section 14. A Market Maker or ECN that ceases to meet the obligations appurtenant to its Primary MPID in any security shall not be permitted to use a Supplemental MPID for any purpose in that security.]

[(K) Market Makers and ECNs that are permitted the use of Supplemental MPIDs for displaying Attributable Quotes/Orders pursuant to subparagraph (2) of this rule are subject to the same rules applicable to the members' first quotation, with two exceptions: (a) the continuous two-sided quote requirement and excused withdrawal procedures described in subparagraph (1) above do not apply to Market Makers' Supplemental MPIDs; and (b) Supplemental MPIDs may not be used by Market Makers to engage in passive market making or to enter stabilizing bids pursuant to Equity 2, Sections 6 and 10.]

* * * * *

Section 11. [Voluntary]Termination of Registration in a Security

(a) A Nasdaq [m]Market [m]Maker may voluntarily terminate its registration in a security by providing Nasdaq with written notice that the Nasdaq Market Maker will withdraw[ing] its two-sided quotation from the Nasdaq Market Center. A Nasdaq Market Maker that fails to give written notice of termination to Nasdaq prior to withdrawing its two-sided quotation may be subject to formal disciplinary action pursuant to Nasdaq General 5. A Nasdaq Market Maker that voluntarily terminates its registration in a security may not re-register as a market maker in that security for five (5)[twenty (20)] business days[in the case of Nasdaq-listed securities or for one (1) business day in the case of ITS securities]. [Withdrawal from participation as a Nasdaq Market Maker in the Nasdaq Market Center shall constitute termination of registration as a market maker in that security for purposes of this Rule; provided,][h]However, [that]a Nasdaq Market Maker that fails to maintain a clearing arrangement with a registered clearing agency or with a member of such an agency and is withdrawn from participation in the Nasdaq Market Center and thereby terminates its registration in a security as a Nasdaq Market Maker may register as a Nasdaq [m]Market [m]Maker at any time after a clearing arrangement has been reestablished unless Nasdaq finds that the Nasdaq Market Maker's failure to maintain a clearing arrangement is voluntary, in which case the withdrawal of quotations will be considered voluntary and unexcused.

(b) Notwithstanding the above, a Nasdaq Market Maker that accidentally terminates its registration in a security by accidentally withdrawing[s] its two-sided quotation from [as a]the Nasdaq Market [Maker] Center may be reinstated if:

(1) the Nasdaq Market Maker notified MarketWatch of the accidental withdrawal as soon as practicable under the circumstances, but within at least one hour of such withdrawal, and immediately thereafter provided written notification of the withdrawal and reinstatement request;

(2) it is clear that the withdrawal was inadvertent and the Nasdaq [m]Market [m]Maker was not attempting to avoid its market making obligations; and

(3) the Nasdaq Market Maker's firm would not exceed the following reinstatement limitations:

(A) for firms that simultaneously made markets in less than 250 stocks during the previous calendar year, the firm can receive no more than two (2) reinstatements per year;

(B) for firms that simultaneously made markets in 250 or more but less than 500 stocks during the previous calendar year, the firm can receive no more than three (3) reinstatements per year; and

(C) for firms that simultaneously made markets in 500 or more stocks during the previous calendar year, the firm can receive no more than six (6) reinstatements per year.

(c) Factors that Nasdaq will consider in granting a reinstatement under paragraph (b) of this rule include, but are not limited to:

- (1) the number of accidental withdrawals by the Nasdaq Market Maker in the past, as compared with Nasdaq Market Makers making markets in a comparable number of stocks;
- (2) the similarity between the symbol of the stock that the Nasdaq Market Maker intended to withdraw from and the symbol of the stock that the Nasdaq Market Maker actually withdrew from;
- (3) market conditions at the time of the withdrawal;
- (4) whether, given the market conditions at the time of the withdrawal, the withdrawal served to reduce the exposure of the member's position in the security at the time of the withdrawal to market risk; and
- (5) the timeliness with which the Nasdaq Market Maker notified MarketWatch of the error.

(d) For purposes of paragraph (a) of this Rule, a Nasdaq [m]arket M[m]aker shall not be deemed to have voluntarily terminated its registration in a security by voluntarily withdrawing its two-sided quotation from the Nasdaq Market Center] subject to formal disciplinary action for the failure to give written notice of withdrawal in a security to Nasdaq, if the Nasdaq Market Maker's two-sided quotation in the subject security is withdrawn by Nasdaq's systems due to issuer corporate action related to a dividend, payment or distribution, or due to a trading halt, and one of the following conditions is satisfied:

- (1) the Nasdaq Market Maker enters a new two-sided quotation prior to the close of the regular market session on the same day when Nasdaq's systems withdrew such a quotation;
- (2) the Nasdaq Market Maker enters a new two-sided quotation on the day when trading resumes following a trading halt, or, if the resumption of trading occurs when the market is not in regular session, the Nasdaq Market Maker enters a new two-sided quotation prior to the opening of the next regular market session; or
- (3) upon written request from the Nasdaq [m]Market [m]Maker, Nasdaq MarketWatch authorizes the Nasdaq [m]Market [m]Maker to enter a new two-sided quotation, provided that Nasdaq MarketWatch receives the Nasdaq [m]Market [m]Maker's request prior to the close of the regular market session on the next

regular trading day after the day on which the Nasdaq [m]Market [m]Maker became eligible to re-enter a quotation pursuant to subparagraph (d)(1) or (d)(2) hereof and determines that the market maker was not attempting to avoid its market making obligations by failing to re-enter such a quotation earlier.

(e) The Nasdaq Review Council shall have jurisdiction over proceedings brought by Nasdaq [m]Market [m]Makers seeking review of their denial of a reinstatement pursuant to paragraphs (b) or (d) of this Rule.

* * * * *