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Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2012 - * 019
Amendment No. (req. for Amendments *)

Proposed Rule Change by NASDAQ Stock Market

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

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☑	☐	☐	☐	☑	☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☑ 19b-4(f)(6)

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

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

A proposal to extend the operative period of the pilot under Rule 4753c so that it will expire the earlier of July 31, 2012 or the date on which a limit up limit down system is adopted.

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 proposed rule change.

First Name * Sean Last Name * Bennett
Title * Assistant General Counsel
E-mail * sean.bennett@nasdaqomx.com
Telephone * (301) 978-8499 Fax (301) 978-8472

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date 01/27/2012

By Edward S. Knight

(Name *)

Executive Vice President and General Counsel

(Title *)

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

Edward S Knight,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information (required) Add Remove View	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 (required) Add Remove View	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 Add Remove View Exhibit Sent As Paper Document ☐	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 3 - Form, Report, or Questionnaire Add Remove View Exhibit Sent As Paper Document ☐	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 4 - Marked Copies Add Remove View	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 Add Remove View	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 Add Remove View	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 Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] The NASDAQ Stock Market LLC ("NASDAQ") is filing with the Securities and Exchange Commission ("Commission") a proposal to extend the operative period of the pilot under Rule 4753(c), NASDAQ's "Volatility Guard," so that it will expire the earlier of July 31, 2012 or the date on which a limit up/limit down system is adopted.

(a) The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

4753. Nasdaq Halt and Imbalance Crosses

(a) - (b) No change.

(c) For a pilot period ending the earlier of <u>July 31, 2012</u>[January 31, 2012] or the date on which, if approved, a limit up / limit down mechanism to address extraordinary market volatility, is approved, between 9:30 a.m. and 3:35 p.m. EST, the System will automatically monitor System executions to determine whether the market is trading in an orderly fashion and whether to conduct an Imbalance Cross in order to restore an orderly market in a single Nasdaq Security.

(1) An Imbalance Cross shall occur if the System executes a transaction in a Nasdaq Security at a price that is beyond the Threshold Range away from the Triggering Price for that security. The Triggering Price for each Nasdaq Security shall be the price of any execution by the System in that security within the prior 30 seconds. The Threshold Range shall be determined as follows:

Execution Price	**Threshold Range Away From Triggering Price**
$1.75 and under	15%
Over $1.75 and up to $25	10%
Over $25 and up to $50	5%
Over $50	3%

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

(2) If the System determines pursuant to subsection (1) above to conduct an Imbalance Cross in a Nasdaq Security, the System shall automatically cease executing trades in that security for a 60-second Display Only Period. During that 60-second Display Only Period, the System shall:

(A) maintain all current quotes and orders and continue to accept quotes and orders in that System Security; and

(B) Disseminate by electronic means an Order Imbalance Indicator every 5 seconds.

(3) At the conclusion of the 60-second Display Only Period, the System shall re-open the market by executing the Nasdaq Halt Cross as set forth in subsection (b)(2) - (4) above.

(4) If the opening price established by the Nasdaq Halt Cross pursuant to subsection (b)(2)(A) - (D) above is outside the benchmarks established by Nasdaq by a threshold amount, the Nasdaq Halt Cross will occur at the price within the threshold amounts that best satisfies the conditions of subparagraphs (b)(2)(A) through (D) above. Nasdaq management shall set and modify such benchmarks and thresholds from time to time upon prior notice to market participants.

(d) No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. <u>Procedures of the Self-Regulatory Organization</u>

The proposed rule change was approved by senior management of NASDAQ pursuant to authority delegated by the Board of Directors of NASDAQ on October 18, 2006. NASDAQ staff will advise the Board of Directors of NASDAQ of any action taken pursuant to delegated authority. No other action by NASDAQ is necessary for the filing of the rule change.

Questions regarding this rule proposal may be directed to T. Sean Bennett, Assistant General Counsel, The NASDAQ OMX Group, at (301) 978-8499 (telephone) or (301) 978-8472 (fax).

3. <u>Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change</u>

a. <u>Purpose</u>

NASDAQ is proposing to extend the operative period of the pilot under Rule 4753(c), NASDAQ's "Volatility Guard," so that it will expire the earlier of July 31, 2012 or the date on which a limit up/limit down system is adopted, yet hold the implementation of Rule 4753(c) in abeyance until a limit up/limit down system is either adopted or disapproved.

<u>Background</u>

On March 11, 2011, the Commission approved Rule 4753(c) (the "Volatility Guard"), a volatility-based pause in trading in individual NASDAQ-listed securities traded on NASDAQ ("NASDAQ Securities"), as a six month pilot applied to the NASDAQ 100 Index securities.[3] The Volatility Guard automatically suspends trading in individual NASDAQ Securities that are the subject of abrupt and significant intraday price movements between 9:30 a.m. and 4 p.m. Eastern Standard Time ("EST"), which was subsequently amended to 9:45 a.m. and 3:35 p.m. EST to avoid potential interference with the opening and closing crosses.[4] Volatility Guard is triggered automatically when the execution price of a pilot security moves more than a fixed amount away from a pre-established ''triggering price'' for that security. The triggering price for each pilot security is the price of any execution by the system in that security within the previous 30 seconds. For each pilot security, the system continually compares the price of each

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3 Securities Exchange Act Release No. 64071 (March 11, 2011), 76 FR 14699 (March 17, 2011) (SR-NASDAQ-2010-074). Amendment 1 to SR-NASDAQ-2010-074 designated the NASDAQ 100 Index as the 100 pilot securities.

4 Securities Exchange Act Release No. 64268 (April 8, 2011), 76 FR 20742 (April 15, 2011) (SR-NASDAQ-2011-051).

execution in the system against the prices of all system executions in that security over the 30 seconds. Once triggered, NASDAQ institutes a formal trading halt during which time NASDAQ systems are prohibited from executing orders. Members, however, may continue to enter quotes and orders, which are queued during a 60-second Display Only Period. At the conclusion of the Display Only Period, the queued orders are executed at a single price, pursuant to NASDAQ's Halt Cross mechanism.[5]

NASDAQ determined to adopt Volatility Guard as a six month pilot in response to the unprecedented aberrant volatility witnessed on May 6, 2010, and the limited effect that NASDAQ's market collars had in dampening such volatility. NASDAQ believed that the Rule 4753(c) halt process was needed to protect its listed securities and market participants from such volatility in the future. In proposing the six month pilot, NASDAQ noted that another market had adopted a process whereby the market's listed securities each may be temporarily removed from automatic trading when the trading exceeds certain average daily volume-, price-, and volatility-based criteria. Accordingly, NASDAQ believed that adopting its own process would serve to protect its market from aberrant volatility, like that experienced on May 6, 2011.

Limit Up / Limit Down Proposal

During the time that the Volatility Guard pilot was progressing through the notice and comment process with the Commission, NASDAQ together with the other national securities exchanges and FINRA ("SROs") and in consultation with the Commission, worked diligently to implement changes to the markets to prevent another event like May

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5 The Nasdaq Halt Cross is "the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest." See Nasdaq Rule 4753(a)(3).

6, 2010 from occurring. In this regard, the SROs have expanded their existing circuit breaker pilots[6] to cover all NMS stocks other than rights and warrants,[7] clarified rules concerning clearly erroneous processes,[8] and have made great strides in developing a limit up / limit down system to replace the circuit breakers currently in place. With respect to this last effort, on May 25, 2011, the SROs filed with the Commission a national market system plan to address extraordinary market volatility, which proposed a market-wide limit up / limit down system applicable to all NMS stocks (the "Plan").[9] The period to submit comments on the Plan ended on June 22, 2011, and the Commission

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6 On June 10, 2010, the Commission approved the Circuit Breaker Pilot, which instituted new circuit breaker rules that pause trading for five minutes in a security included in the S&P 500 Index if its price moves ten percent or more over a five-minute period. See Securities Exchange Act Release Nos. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR-FINRA-2010-025); 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR-NASDAQ-2010-061, et al.). On September 10, 2010, the Circuit Breaker Pilot was expanded to include securities in the Russell 1000 Index and certain exchange-traded products. See Securities Exchange Act Release Nos. 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR-FINRA-2010-033); 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (SR-NASDAQ-2010-079, et al.). The Circuit Breaker Pilot is scheduled to expire on August 11, 2011. See e.g., Securities Exchange Act Release No. 64174 (April 4, 2011), 76 FR 19819 (April 8, 2011) (SR-NASDAQ-2011-042).

7 On June 23, 2011, the Commission granted accelerated approval to SRO proposals to expand the Circuit Breaker Pilot to all NMS securities. See Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (SR-NASDAQ-2011-067, et al.). In November 2011, the SROs filed immediately effective rule changes to exclude rights and warrants from the Circuit Breaker Pilot. See e.g., Securities Exchange Act Release No. 65814 (November 23, 2011), 76 FR 74084 (November 30, 2011) (SR-NASDAQ-2011-154). The term "NMS stocks" is defined in Rule 600(b)(47) of Regulation NMS under the Act. See 17 CFR 242.600(b)(47).

8 Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR-NASDAQ-2010-076, et al.); see also Securities Exchange Act Release No. 64238 (April 7, 2011), 76 FR 20780 (April 13, 2011) (SR-NASDAQ-2011-043).

9 Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4-631).

had previously stated that it would determine whether to approve the Plan shortly after the expiration of the comment period.[10] The SROs have proposed implementing the Plan 120 calendar days following the publication of the Commission's order approving the proposed Plan in the Federal Register.

Important to the implementation of Volatility Guard, NASDAQ notes that the Commission stated that it may find exchange-specific volatility moderators inconsistent with the Act once a uniform, cross-market mechanism to address aberrant volatility is adopted. In approving Volatility Guard, the Commission emphasized:

> [T]hat it is continuing to work diligently with the exchanges and FINRA to develop an appropriate consistent cross-market mechanism to moderate excessive volatility that could be applied widely to individual exchange-listed securities and to address commenters' concerns regarding the complexity and potential confusion of exchange-specific volatility moderators. To the extent the Commission approves such a mechanism, whether it be an expanded circuit breaker with a limit up/limit down feature or otherwise, *the Commission may no longer be able to find that exchange-specific volatility moderators—including both Nasdaq's Volatility Guard and the NYSE's LRPs – are consistent with the Act*.[11]

NASDAQ calculated that the Plan, if approved, may be implemented by the end of 2011 or early 2012.[12] It was based on that calculation that NASDAQ determined to extend the pilot period of Volatility Guard until January 31, 2012.[13]

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10 See http://www.sec.gov/news/press/2011/2011-84.htm. At the close of the comment period, NASDAQ understood that, given the number of comments received, the Commission would need a reasonable time to consider the comments provided. Rule 608(b) of Regulation NMS governs the effectiveness of national market system plans. See 17 CFR 242.608.

11 Securities Exchange Act Release No. 64071 (March 11, 2011), 76 FR 14699, at 14701 (March 17, 2011) (SR-NASDAQ-2010-074, as amended) (e*mphasis added*).

12 *Supra* note 9.

13 Securities Exchange Act Release No. 65176 (August 19, 2011), 76 FR 53518 (August 26, 2011) (SR-NASDAQ-2011-117).

On September 27, 2011, the Commission provided notice that it was extending the period for Commission action on the limit up / limit down proposal.[14] Pursuant to Section 11A[15] of the Act and Rule 608 thereunder,[16] the Commission may designate up to 180 days from the date of publication of notice of filing of a national market system plan if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the sponsors consent. In extending the date by which the Commission shall approve the Plan to November 28, 2011, the Commission noted that the extension of time was appropriate because, among other things, the additional time would ensure that the Commission has sufficient time to consider and take action on the SROs' proposal in light of the comments received on the proposal.[17] On November 18, 2011, the SROs notified the Commission that they consented to a three-month extension for Commission action on the Plan.[18] Pursuant to such consent, the Commission must take action on the Plan by February 29, 2012.

Proposal

NASDAQ continues to believe that a limit up / limit down system, as proposed in the Plan, would be preferable to disparate individual market solutions to aberrant volatility. Given the progress made toward adopting a uniform limit up / limit down

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14 Securities Exchange Act Release No. 65410 (September 27, 2011), 76 FR 61121 (October 3, 2011) (File No. 4-631).

15 15 U.S.C. 78k-1.

16 17 CFR 242.608.

17 At the time of the notice, the Commission had received 18 comment letters on the proposed Plan.

18 Letter from Janet M. McGinness, Senior Vice President and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated November 18, 2011.

system and the Commission's apparent desire that exchange-specific volatility moderators be abandoned once a consistent cross-market mechanism is adopted, NASDAQ believes that implementing Volatility Guard at this time may be confusing and onerous to market participants.

NASDAQ is proposing to again extend the pilot rather than eliminate it so that NASDAQ may continue to have the option to implement Volatility Guard should the Plan not be approved by the Commission. As a primary market, NASDAQ takes seriously its responsibility to both its listed companies and the investing public. NASDAQ continues to believe that an individual solution like Volatility Guard, may be necessary in the event the Plan is rejected, much like NYSE-listed stocks may be protected by the LRP mechanism if it remains in place. NASDAQ believes that extending the Volatility Guard pilot, but holding its implementation in abeyance until such time that the Plan is approved or disapproved will best serve these groups by allowing NASDAQ to retain the ability to implement Volatility Guard if necessary, while also allowing market participants to make preparations to implement a limit up / limit down system, as proposed in the Plan. As such, market participants will not needlessly expend energy changing, and testing, their systems to account for the Volatility Guard pilot in addition to the changes required to implement the Plan.

Accordingly, NASDAQ is proposing to extend the Volatility Guard pilot to the earlier of July 31, 2012 or the date on which the Plan is approved and implemented. Should the Plan not be implemented by the expiration of the pilot, NASDAQ may consider further extension of Volatility Guard, consistent with the extension proposed herein.

b. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[19] in general and with Sections 6(b)(5) of the Act,[20] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. NASDAQ believes that the proposed rule continues to meet these requirements in that it promotes the adoption of the Plan's uniform, cross-market limit up / limit down process to address aberrant volatility, while also allowing NASDAQ to retain an important alternative tool to deal with such volatility should approval of the Plan be delayed or disapproved.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Not applicable.

6. Extension of Time Period for Commission Action

NASDAQ does not consent to an extension of time.

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19 15 U.S.C. 78f.

20 15 U.S.C. 78f(b)(5).

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) of the Act[21] and Rule 19b-4(f)(6)[22] thereunder 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.

NASDAQ notes that the proposed rule change extends the pilot period for an additional six months to allow for the approval and implementation of the Plan. NASDAQ notes that progress has been made toward adopting a limit up / limit down process, an alternative to exchange-specific volatility moderators. NASDAQ also notes that most commenters to the Plan generally noted support for implementing a limit up / limit down mechanism and viewed it as preferable to the current single-stock circuit breakers. Accordingly, NASDAQ believes that it is appropriate to extend the pilot period to allow the Commission to take action on the Plan, while holding implementation of the Pilot in abeyance until either the Plan is approved and implemented or disapproved. Doing so will allow market participants to continue to focus on preparations to implement the proposed limit up / limit down process.

NASDAQ requests that the Commission waive the 30-day pre-operative waiting period contained in Exchange Act Rule 19b-4(f)(6)(iii).[23] NASDAQ requests this waiver

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21 15 U.S.C. 78s(b)(3)(A).

22 17 CFR 240.19b-4(f)(6).

23 17 CFR 240.19b-4(f)(6)(iii).

because it will allow the change to be operative at the expiration of the current pilot program period on January 31, 2012, thus allowing the pilot program to continue uninterrupted. NASDAQ believes that an interruption of the pilot period would likely confuse market participants. As such, NASDAQ believes that implementation of proposal should not be delayed, so that the pilot program will continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program.

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

Not applicable.

9. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASDAQ-2012-019)

January __, 2012

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Pilot Period of Rule 4753(c)

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 January 27, 2012, The NASDAQ Stock Market LLC ("NASDAQ"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. <u>Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change</u>

NASDAQ proposes to extend the pilot period of Rule 4753(c), NASDAQ's "Volatility Guard," so that the pilot will now expire on the earlier of July 31, 2012 or the date on which a limit up/limit down system is adopted.

The text of the proposed rule change is below. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

4753. Nasdaq Halt and Imbalance Crosses

(a) - (b) No change.

(c) For a pilot period ending the earlier of <u>July 31, 2012</u>[January 31, 2012] or the date on which, if approved, a limit up / limit down mechanism to address extraordinary market

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

volatility, is approved, between 9:30 a.m. and 3:35 p.m. EST, the System will automatically monitor System executions to determine whether the market is trading in an orderly fashion and whether to conduct an Imbalance Cross in order to restore an orderly market in a single Nasdaq Security.

(1) An Imbalance Cross shall occur if the System executes a transaction in a Nasdaq Security at a price that is beyond the Threshold Range away from the Triggering Price for that security. The Triggering Price for each Nasdaq Security shall be the price of any execution by the System in that security within the prior 30 seconds. The Threshold Range shall be determined as follows:

Execution Price	**Threshold Range Away From Triggering Price**
$1.75 and under	15%
Over $1.75 and up to $25	10%
Over $25 and up to $50	5%
Over $50	3%

(2) If the System determines pursuant to subsection (1) above to conduct an Imbalance Cross in a Nasdaq Security, the System shall automatically cease executing trades in that security for a 60-second Display Only Period. During that 60-second Display Only Period, the System shall:

(A) maintain all current quotes and orders and continue to accept quotes and orders in that System Security; and

(B) Disseminate by electronic means an Order Imbalance Indicator every 5 seconds.

(3) At the conclusion of the 60-second Display Only Period, the System shall re-open the market by executing the Nasdaq Halt Cross as set forth in subsection (b)(2) - (4) above.

(4) If the opening price established by the Nasdaq Halt Cross pursuant to subsection (b)(2)(A) - (D) above is outside the benchmarks established by Nasdaq by a threshold amount, the Nasdaq Halt Cross will occur at the price within the threshold amounts that best satisfies the conditions of subparagraphs (b)(2)(A) through (D) above. Nasdaq management shall set and modify such benchmarks and thresholds from time to time upon prior notice to market participants.

(d) No change.

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

In its filing with the Commission, NASDAQ included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ 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

NASDAQ is proposing to extend the operative period of the pilot under Rule 4753(c), NASDAQ's "Volatility Guard," so that it will expire the earlier of July 31, 2012 or the date on which a limit up/limit down system is adopted, yet hold the implementation of Rule 4753(c) in abeyance until a limit up/limit down system is either adopted or disapproved.

Background

On March 11, 2011, the Commission approved Rule 4753(c) (the "Volatility Guard"), a volatility-based pause in trading in individual NASDAQ-listed securities traded on NASDAQ ("NASDAQ Securities"), as a six month pilot applied to the NASDAQ 100 Index securities.[3] The Volatility Guard automatically suspends trading in individual NASDAQ Securities that are the subject of abrupt and significant intraday price movements between 9:30 a.m. and 4 p.m. Eastern Standard Time ("EST"), which was subsequently amended to 9:45 a.m. and 3:35 p.m. EST to avoid potential interference with the opening and closing crosses.[4] Volatility Guard is triggered automatically when the execution price of a pilot security moves more than a fixed amount away from a pre-

[3] Securities Exchange Act Release No. 64071 (March 11, 2011), 76 FR 14699 (March 17, 2011) (SR-NASDAQ-2010-074). Amendment 1 to SR-NASDAQ-2010-074 designated the NASDAQ 100 Index as the 100 pilot securities.

[4] Securities Exchange Act Release No. 64268 (April 8, 2011), 76 FR 20742 (April 15, 2011) (SR-NASDAQ-2011-051).

established ‘‘triggering price’’ for that security. The triggering price for each pilot security is the price of any execution by the system in that security within the previous 30 seconds. For each pilot security, the system continually compares the price of each execution in the system against the prices of all system executions in that security over the 30 seconds. Once triggered, NASDAQ institutes a formal trading halt during which time NASDAQ systems are prohibited from executing orders. Members, however, may continue to enter quotes and orders, which are queued during a 60-second Display Only Period. At the conclusion of the Display Only Period, the queued orders are executed at a single price, pursuant to NASDAQ’s Halt Cross mechanism.[5]

NASDAQ determined to adopt Volatility Guard as a six month pilot in response to the unprecedented aberrant volatility witnessed on May 6, 2010, and the limited effect that NASDAQ’s market collars had in dampening such volatility. NASDAQ believed that the Rule 4753(c) halt process was needed to protect its listed securities and market participants from such volatility in the future. In proposing the six month pilot, NASDAQ noted that another market had adopted a process whereby the market’s listed securities each may be temporarily removed from automatic trading when the trading exceeds certain average daily volume-, price-, and volatility-based criteria. Accordingly, NASDAQ believed that adopting its own process would serve to protect its market from aberrant volatility, like that experienced on May 6, 2011.

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[5] The Nasdaq Halt Cross is “the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest.” See Nasdaq Rule 4753(a)(3).

Limit Up / Limit Down Proposal

During the time that the Volatility Guard pilot was progressing through the notice and comment process with the Commission, NASDAQ together with the other national securities exchanges and FINRA ("SROs") and in consultation with the Commission, worked diligently to implement changes to the markets to prevent another event like May 6, 2010 from occurring. In this regard, the SROs have expanded their existing circuit breaker pilots[6] to cover all NMS stocks other than rights and warrants,[7] clarified rules concerning clearly erroneous processes,[8] and have made great strides in developing a limit up / limit down system to replace the circuit breakers currently in place. With

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6 On June 10, 2010, the Commission approved the Circuit Breaker Pilot, which instituted new circuit breaker rules that pause trading for five minutes in a security included in the S&P 500 Index if its price moves ten percent or more over a five-minute period. See Securities Exchange Act Release Nos. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR-FINRA-2010-025); 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR-NASDAQ-2010-061, et al.). On September 10, 2010, the Circuit Breaker Pilot was expanded to include securities in the Russell 1000 Index and certain exchange-traded products. See Securities Exchange Act Release Nos. 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR-FINRA-2010-033); 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (SR-NASDAQ-2010-079, et al.). The Circuit Breaker Pilot is scheduled to expire on August 11, 2011. See e.g., Securities Exchange Act Release No. 64174 (April 4, 2011), 76 FR 19819 (April 8, 2011) (SR-NASDAQ-2011-042).

7 On June 23, 2011, the Commission granted accelerated approval to SRO proposals to expand the Circuit Breaker Pilot to all NMS securities. See Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (SR-NASDAQ-2011-067, et al.). In November 2011, the SROs filed immediately effective rule changes to exclude rights and warrants from the Circuit Breaker Pilot. See e.g., Securities Exchange Act Release No. 65814 (November 23, 2011), 76 FR 74084 (November 30, 2011) (SR-NASDAQ-2011-154). The term "NMS stocks" is defined in Rule 600(b)(47) of Regulation NMS under the Act. See 17 CFR 242.600(b)(47).

8 Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR-NASDAQ-2010-076, et al.); see also Securities Exchange Act Release No. 64238 (April 7, 2011), 76 FR 20780 (April 13, 2011) (SR-NASDAQ-2011-043).

respect to this last effort, on May 25, 2011, the SROs filed with the Commission a national market system plan to address extraordinary market volatility, which proposed a market-wide limit up / limit down system applicable to all NMS stocks (the "Plan").[9] The period to submit comments on the Plan ended on June 22, 2011, and the Commission had previously stated that it would determine whether to approve the Plan shortly after the expiration of the comment period.[10] The SROs have proposed implementing the Plan 120 calendar days following the publication of the Commission's order approving the proposed Plan in the Federal Register.

Important to the implementation of Volatility Guard, NASDAQ notes that the Commission stated that it may find exchange-specific volatility moderators inconsistent with the Act once a uniform, cross-market mechanism to address aberrant volatility is adopted. In approving Volatility Guard, the Commission emphasized:

> [T]hat it is continuing to work diligently with the exchanges and FINRA to develop an appropriate consistent cross-market mechanism to moderate excessive volatility that could be applied widely to individual exchange-listed securities and to address commenters' concerns regarding the complexity and potential confusion of exchange-specific volatility moderators. To the extent the Commission approves such a mechanism, whether it be an expanded circuit breaker with a limit up/limit down feature or otherwise, *the Commission may no longer be able to find that exchange-specific volatility moderators—including both Nasdaq's Volatility Guard and the NYSE's LRPs – are consistent with the Act*.[11]

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9 Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4-631).

10 See http://www.sec.gov/news/press/2011/2011-84.htm. At the close of the comment period, NASDAQ understood that, given the number of comments received, the Commission would need a reasonable time to consider the comments provided. Rule 608(b) of Regulation NMS governs the effectiveness of national market system plans. See 17 CFR 242.608.

11 Securities Exchange Act Release No. 64071 (March 11, 2011), 76 FR 14699, at 14701 (March 17, 2011) (SR-NASDAQ-2010-074, as amended) (e*mphasis added*).

NASDAQ calculated that the Plan, if approved, may be implemented by the end of 2011 or early 2012.[12] It was based on that calculation that NASDAQ determined to extend the pilot period of Volatility Guard until January 31, 2012.[13]

On September 27, 2011, the Commission provided notice that it was extending the period for Commission action on the limit up / limit down proposal.[14] Pursuant to Section 11A[15] of the Act and Rule 608 thereunder,[16] the Commission may designate up to 180 days from the date of publication of notice of filing of a national market system plan if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the sponsors consent. In extending the date by which the Commission shall approve the Plan to November 28, 2011, the Commission noted that the extension of time was appropriate because, among other things, the additional time would ensure that the Commission has sufficient time to consider and take action on the SROs' proposal in light of the comments received on the proposal.[17] On November 18, 2011, the SROs notified the Commission that they consented to a three-month extension

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12 *Supra* note 9.

13 Securities Exchange Act Release No. 65176 (August 19, 2011), 76 FR 53518 (August 26, 2011) (SR-NASDAQ-2011-117).

14 Securities Exchange Act Release No. 65410 (September 27, 2011), 76 FR 61121 (October 3, 2011) (File No. 4-631).

15 15 U.S.C. 78k-1.

16 17 CFR 242.608.

17 At the time of the notice, the Commission had received 18 comment letters on the proposed Plan.

for Commission action on the Plan.[18] Pursuant to such consent, the Commission must take action on the Plan by February 29, 2012.

Proposal

NASDAQ continues to believe that a limit up / limit down system, as proposed in the Plan, would be preferable to disparate individual market solutions to aberrant volatility. Given the progress made toward adopting a uniform limit up / limit down system and the Commission's apparent desire that exchange-specific volatility moderators be abandoned once a consistent cross-market mechanism is adopted, NASDAQ believes that implementing Volatility Guard at this time may be confusing and onerous to market participants.

NASDAQ is proposing to again extend the pilot rather than eliminate it so that NASDAQ may continue to have the option to implement Volatility Guard should the Plan not be approved by the Commission. As a primary market, NASDAQ takes seriously its responsibility to both its listed companies and the investing public. NASDAQ continues to believe that an individual solution like Volatility Guard, may be necessary in the event the Plan is rejected, much like NYSE-listed stocks may be protected by the LRP mechanism if it remains in place. NASDAQ believes that extending the Volatility Guard pilot, but holding its implementation in abeyance until such time that the Plan is approved or disapproved will best serve these groups by allowing NASDAQ to retain the ability to implement Volatility Guard if necessary, while also allowing market participants to make preparations to implement a limit up

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18 Letter from Janet M. McGinness, Senior Vice President and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated November 18, 2011.

/ limit down system, as proposed in the Plan. As such, market participants will not needlessly expend energy changing, and testing, their systems to account for the Volatility Guard pilot in addition to the changes required to implement the Plan.

Accordingly, NASDAQ is proposing to extend the Volatility Guard pilot to the earlier of July 31, 2012 or the date on which the Plan is approved and implemented. Should the Plan not be implemented by the expiration of the pilot, NASDAQ may consider further extension of Volatility Guard, consistent with the extension proposed herein.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[19] in general and with Sections 6(b)(5) of the Act,[20] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. NASDAQ believes that the proposed rule continues to meet these requirements in that it promotes the adoption of the Plan's uniform, cross-market limit up / limit down process to address aberrant volatility, while also allowing NASDAQ to retain an important alternative tool to deal with such volatility should approval of the Plan be delayed or disapproved.

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[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(5).

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (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)(ii) of the Act[21] and subparagraph (f)(6) of Rule 19b-4 thereunder.[22]

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. NASDAQ has provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

21 15 U.S.C. 78s(b)(3)(a)(ii).

22 17 CFR 240.19b-4(f)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2012-019 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2012-019. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m.

Copies of such filing also will be available for inspection and copying at the principal offices of NASDAQ. 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-2012-019, 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.[23]

Kevin M. O'Neill
Deputy Secretary

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[23] 17 CFR 200.30-3(a)(12).