OMB APPROVAL
OMB Number: 3235-0045 Estimated average burden hours per response............38

Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2013 - * 139
Amendment No. (req. for Amendments *)

Filing 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)

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 proposed rule change regarding Post-Only Orders received prior to the opening

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 * Jurij Last Name * Trypupenko

Title * Associate General Counsel

E-mail * jurij.trypupenko@nasdaqomx.com

Telephone * (301) 978-8132 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.

Date 11/05/2013

By Edward S. Knight

(Name *)

(Title *)

Executive Vice President and General Counsel

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,

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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 *

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

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, security-based swap submission, or advance notice 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

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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 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

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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

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 the Proposed Rule Change

(a) Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to modify Chapter VI (Trading Systems), Section 1 (Definitions) of the NASDAQ Options Market, LLC ("NOM"), to indicate that Post-Only Orders received prior to the opening will be eligible for execution during the opening cross.

The Exchange requests that the Commission waive the 30-day operative delay period.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1. The text of the proposed rule change is set forth immediately below.

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

NASDAQ Stock Market Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 1 Definitions

The following definitions apply to Chapter VI for the trading of options listed on NOM.

(a) – (d) No Change.

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

[2] 17 CFR 240.19b-4.

(e) The term "Order Type" shall mean the unique processing prescribed for designated orders that are eligible for entry into the System, and shall include:

(1) – (10) No Change.

(11) "Post-Only Orders" are orders that will not remove liquidity from the System. Post-Only Orders are to be ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) if a Post-Only Order would lock or cross an order on the System, the order will be re-priced to $.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation of another market center, the order will be handled pursuant to Chapter VI, Section 7(b)(3)(C). Participants may choose to have their Post-Only Orders returned whenever the order would lock or cross the NBBO or be placed on the book at a price other than its limit price. Post-Only Orders received prior to the opening [cross or]<u>will be eligible for execution during the opening cross and will be processed as per Chapter VI, Section 8. Post-Only Orders received</u> after market close will be rejected. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel.

(f) – (h) 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 the Exchange pursuant to authority delegated by the Board of Directors of the Exchange ("Board of Directors") on July 17, 2013. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to Jurij Trypupenko, Associate General Counsel, The NASDAQ OMX Group, Inc., at (301) 978-8132.

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

a. Purpose

The purpose of the proposed rule change is to modify NOM Chapter VI, Section 1(e)(11) to indicate that Post-Only Orders received prior to the opening will now be eligible for execution during the opening cross.[3]

Currently, subsection (e) of Section 1 states that "Order Type" means the unique processing prescribed for designated orders that are eligible for entry into the System[4] by NOM Participants and Market Makers.[5] Subsection (e)(11) states that one of these order types, specifically "Post-Only Orders", are orders[6] that will not remove liquidity from the System. Post-Only Orders are ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market. Post-Only Orders are evaluated at

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3 The Exchange will explain the proposed change to its participants via an Options Trading Alert.

4 The term "System" means, in relevant part, the automated system for order execution and trade reporting owned and operated by NOM. See Chapter VI, Section 1(a).

5 Options Participants registered as Market Makers have certain rights and bear certain responsibilities beyond those of other Options Participants. All Market Makers are designated as specialists on NOM for all purposes under the Exchange Act or Rules thereunder. See Chapter VII, Section 2. An Options Participant that has qualified as an Options Market Maker may register to make markets in individual options. See Chapter VII, Section 3(a).

6 The term "order" means a firm commitment to buy or sell options contracts. See Chapter 1, Section 1(a)(44).

the time of entry with respect to locking or crossing other orders as follows: (i) if a Post-Only Order would lock or cross an order on the System, the order will be re-priced to $.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation of another market center, the order will be handled pursuant to Chapter VI, Section 7(b)(3)(C).[7] Participants may choose to have their Post-Only Orders returned whenever the order would lock or cross the NBBO or be placed on the book at a price other than its limit price. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel.[8] Post-Only Orders received prior to the opening cross or after market close will be rejected.[9] Thus, if today at 9:29:00 Market Maker A submits a buy Post-Only Order to buy 100 MSFT calls at $1.25, that order will

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7 Section 7(b)(3)(C) states regarding Trade-Through and Locked and Crossed Markets: An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions.

8 See Securities Exchange Act Release No. 65761 (November 16, 2011), 76 FR 72230 (November 22, 2011)(SR-NASDAQ-2011-152)(notice of filing and immediate effectiveness adopting a "Post-Only Order" type on NOM)(the "Post-Only Order proposal").

9 The Exchange's options market is open from 9:30 a.m. to 4:00 p.m. Eastern Time ("ET"), except for option contracts on certain fund shares or broad-based indexes which close as of 4:15 p.m. See Chapter VI, Section 2.

be rejected. The Exchange is proposing to update how such pre-market orders will be handled.

The Exchange is proposing to state in subsection (e)(11) of Section 1 that Post-Only Orders received prior to market open will be allowed to execute as part of the opening process. The Exchange believes that this narrow change is, as discussed below, desirable in today's market and will significantly reduce unnecessary complexity to the benefit of traders and market participants.

It has come to the attention of the Exchange that rejecting all Post-Only Orders prior to the opening cross causes unnecessary complexity for Market Makers that provide liquidity to the Exchange as part of the opening process. Currently, in order to provide liquidity at the market open, Market Makers must not mark orders as Post-Only, as they will be rejected; rather they must mark the orders as regular orders. Immediately after the opening process has concluded, however, Market Makers have to switch over to marking orders as Post-Only Orders. The process of switching from regular to Post-Only Orders is further complicated because each symbol on the Exchange opens at a unique time. The Exchange's open for options requires that the underlying security be open, which may not necessarily be exactly at 9:30 a.m. ET, and also requires that two other options exchanges begin trading the option, as evidenced by dissemination of a firm quote to the Options Price Reporting Authority ("OPRA").[10] The nature of the opening process thus results in varying opening times across many hundreds of thousands of different options symbols that open for trading every day on the Exchange. As a result, Market Makers must know exactly when a particular symbol is open for trading before the switch can be made from

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[10] Chapter VI, Section 8.

regular orders to Post-Only Orders. This complexity unnecessarily increases risk to Market Makers and thus the trading environment. The Exchange is proposing to accept Post-Only Orders received prior to the market open. The Exchange believes that this will significantly reduce complexity and risk for Market Makers wishing to provide liquidity for the opening auction and thereby improve prices at the open. The Exchange believes that the proposal may, in addition, result in message traffic reduction by eliminating the need for Market Makers to cancel and re-enter orders depending on time of opening.

For example, if a Market Maker submits a non-Post-Only bid of $1.00 for 100 CSCO calls at 9:29:50, it will be available for execution in the opening cross because the bid is not marked as Post-Only. Assume that the underlying then opens at 9:30:03, and two other options exchanges open by 9:30:07, and the CSCO calls open on the Exchange. The Market Maker will now need to mark new bids as Post-Only. Moreover, if at 9:30:10 the Market Maker wants to update the size of his bid to 50, the Market Maker will need to cancel the non-Post-Only bid and submit a new bid: $1.00 (50). Under the proposed rule, the Market Maker would be able to mark its pre-market bid as Post-Only. After the market is open, if the Market Maker wishes to update its bid, only one message is needed. The Market Maker simply reduces the bid size with one message rather than having to send a cancellation of the non-Post-Only bid followed by a new Post-Only bid.

By modifying the handling of Post-Only Orders received prior to opening, the proposal serves to reduce confusion and unnecessary complexity regarding orders that come in prior to market opening, and serves to promote liquidity at a crucial time for the market to the benefit of traders and market participants.[11]

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(5) of the Act[13] in particular, in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that this minor rule change will simplify its market structure, minimize or negate unnecessary complexity, and encourage liquidity at the crucial time of market open. The Exchange believes this change will make the transition from the pre-open period to regular market trading more efficient and thus promote just and equitable principles of trade and serve to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. While the Exchange does not believe that the proposal should have an impact on

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11 The Exchange believes that its proposal will not add any surveillance burden that cannot be managed by current surveillance systems; and the proposal will not have any negative influence on Exchange capacity. Moreover, the Exchange notes that this proposal is written from the perspective of Market Makers because they are by far the largest users of Post-Only Orders, and as such stand to benefit from the proposal. The Exchange does not believe that this change raises any concerns in respect of non-Market Maker users of Post-Only Orders as the change will similarly benefit them.

12 15 U.S.C. 78f(b).

13 15 U.S.C. 78f(b)(5).

competition, it believes the proposal will reduce order entry complexity, enhance market liquidity, and be beneficial to market participants.

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)

Pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b-4(f)(6)[15] thereunder, the Exchange has designated this proposal as one that 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.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Furthermore, Rule 19b-4(f)(6)(iii) 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

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14 15 U.S.C. 78s(b)(3)(A).

15 17 CFR 240.19b-4(f)(6).

filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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

Not applicable.[16]

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 for publication in the Federal Register.

16 The Exchange believes that although different in language, the proposal is similar in nature to NYSE Arca Rule 6.62(t), which permits liquidity adding orders.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. ; File No. SR-NASDAQ-2013-139)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding Post-Only Orders Received Prior to the Opening

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4[2] thereunder, notice is hereby given that on November 5, 2013, 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 NASDAQ. 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

NASDAQ is filing with the Commission a proposal to modify Chapter VI (Trading Systems), Section 1 (Definitions) of the NASDAQ Options Market, LLC ("NOM"), to indicate that Post-Only Orders received prior to the opening will be eligible for execution during the opening cross.

The text of the proposed rule change is available from NASDAQ's website at http://nasdaq.cchwallstreet.com, at NASDAQ's principal office, and at the Commission's Public Reference Room.

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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, 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

The purpose of the proposed rule change is to modify NOM Chapter VI, Section 1(e)(11) to indicate that Post-Only Orders received prior to the opening will now be eligible for execution during the opening cross.[3]

Currently, subsection (e) of Section 1 states that "Order Type" means the unique processing prescribed for designated orders that are eligible for entry into the System[4] by NOM Participants and Market Makers.[5] Subsection (e)(11) states that one of these order

3 The Exchange will explain the proposed change to its participants via an Options Trading Alert.

4 The term "System" means, in relevant part, the automated system for order execution and trade reporting owned and operated by NOM. See Chapter VI, Section 1(a).

5 Options Participants registered as Market Makers have certain rights and bear certain responsibilities beyond those of other Options Participants. All Market Makers are designated as specialists on NOM for all purposes under the Exchange Act or Rules thereunder. See Chapter VII, Section 2. An Options Participant that has qualified as an Options Market Maker may register to make markets in individual options. See Chapter VII, Section 3(a).

types, specifically "Post-Only Orders", are orders[6] that will not remove liquidity from the System. Post-Only Orders are ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) if a Post-Only Order would lock or cross an order on the System, the order will be re-priced to $.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation of another market center, the order will be handled pursuant to Chapter VI, Section 7(b)(3)(C).[7] Participants may choose to have their Post-Only Orders returned whenever the order would lock or cross the NBBO or be placed on the book at a price other than its limit price. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel.[8] Post-Only Orders received

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6 The term "order" means a firm commitment to buy or sell options contracts. See Chapter 1, Section 1(a)(44).

7 Section 7(b)(3)(C) states regarding Trade-Through and Locked and Crossed Markets: An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions.

8 See Securities Exchange Act Release No. 65761 (November 16, 2011), 76 FR 72230 (November 22, 2011)(SR-NASDAQ-2011-152)(notice of filing and immediate effectiveness adopting a "Post-Only Order" type on NOM)(the "Post-Only Order proposal").

prior to the opening cross or after market close will be rejected.[9] Thus, if today at 9:29:00 Market Maker A submits a buy Post-Only Order to buy 100 MSFT calls at $1.25, that order will be rejected. The Exchange is proposing to update how such pre-market orders will be handled.

The Exchange is proposing to state in subsection (e)(11) of Section 1 that Post-Only Orders received prior to market open will be allowed to execute as part of the opening process. The Exchange believes that this narrow change is, as discussed below, desirable in today's market and will significantly reduce unnecessary complexity to the benefit of traders and market participants.

It has come to the attention of the Exchange that rejecting all Post-Only Orders prior to the opening cross causes unnecessary complexity for Market Makers that provide liquidity to the Exchange as part of the opening process. Currently, in order to provide liquidity at the market open, Market Makers must not mark orders as Post-Only, as they will be rejected; rather they must mark the orders as regular orders. Immediately after the opening process has concluded, however, Market Makers have to switch over to marking orders as Post-Only Orders. The process of switching from regular to Post-Only Orders is further complicated because each symbol on the Exchange opens at a unique time. The Exchange's open for options requires that the underlying security be open, which may not necessarily be exactly at 9:30 a.m. ET, and also requires that two other options exchanges begin trading the option, as evidenced by dissemination of a firm quote to the Options

9 The Exchange's options market is open from 9:30 a.m. to 4:00 p.m. Eastern Time ("ET"), except for option contracts on certain fund shares or broad-based indexes which close as of 4:15 p.m. See Chapter VI, Section 2.

Price Reporting Authority ("OPRA").[10] The nature of the opening process thus results in varying opening times across many hundreds of thousands of different options symbols that open for trading every day on the Exchange. As a result, Market Makers must know exactly when a particular symbol is open for trading before the switch can be made from regular orders to Post-Only Orders. This complexity unnecessarily increases risk to Market Makers and thus the trading environment. The Exchange is proposing to accept Post-Only Orders received prior to the market open. The Exchange believes that this will significantly reduce complexity and risk for Market Makers wishing to provide liquidity for the opening auction and thereby improve prices at the open. The Exchange believes that the proposal may, in addition, result in message traffic reduction by eliminating the need for Market Makers to cancel and re-enter orders depending on time of opening.

For example, if a Market Maker submits a non-Post-Only bid of $1.00 for 100 CSCO calls at 9:29:50, it will be available for execution in the opening cross because the bid is not marked as Post-Only. Assume that the underlying then opens at 9:30:03, and two other options exchanges open by 9:30:07, and the CSCO calls open on the Exchange. The Market Maker will now need to mark new bids as Post-Only. Moreover, if at 9:30:10 the Market Maker wants to update the size of his bid to 50, the Market Maker will need to cancel the non-Post-Only bid and submit a new bid: $1.00 (50). Under the proposed rule, the Market Maker would be able to mark its pre-market bid as Post-Only. After the market is open, if the Market Maker wishes to update its bid, only one message is needed. The Market Maker simply reduces the bid size with one message rather than having to send a cancellation of the non-Post-Only bid followed by a new Post-Only bid.

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[10] Chapter VI, Section 8.

By modifying the handling of Post-Only Orders received prior to opening, the proposal serves to reduce confusion and unnecessary complexity regarding orders that come in prior to market opening, and serves to promote liquidity at a crucial time for the market to the benefit of traders and market participants.[11]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(5) of the Act[13] in particular, in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that this minor rule change will simplify its market structure, minimize or negate unnecessary complexity, and encourage liquidity at the crucial time of market open. The Exchange believes this change will make the transition from the pre-open period to regular market trading more efficient and thus promote just and equitable principles of trade and serve to protect investors and the public interest.

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11 The Exchange believes that its proposal will not add any surveillance burden that cannot be managed by current surveillance systems; and the proposal will not have any negative influence on Exchange capacity. Moreover, the Exchange notes that this proposal is written from the perspective of Market Makers because they are by far the largest users of Post-Only Orders, and as such stand to benefit from the proposal. The Exchange does not believe that this change raises any concerns in respect of non-Market Maker users of Post-Only Orders as the change will similarly benefit them.

12 15 U.S.C. 78f(b).

13 15 U.S.C. 78f(b)(5).

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. While the Exchange does not believe that the proposal should have an impact on competition, it believes the proposal will reduce order entry complexity, enhance market liquidity, and be beneficial to market participants.

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

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)[14] of the Act and Rule 19b-4(f)(6)(iii) thereunder[15] 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.

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

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14 15 U.S.C. 78s(b)(3)(A).

15 17 CFR 240.19b-4(f)(6)(iii). 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.

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-2013-139 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-2013-139. 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 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-2013-139 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.[16]

Kevin M. O'Neill
Deputy Secretary

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[16] 17 CFR 200.30-3(a)(12).