

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="22"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2014"/> - * <input type="text" value="036"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by NASDAQ Stock Market  
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"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<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	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
Section 3C(b)(2) * <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

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

A Proposed Rule Change to Clarify the Rule Governing the Operation of the Closing Cross in Circumstances Where a Pause Triggered Under the LULD Plan Would be Triggered After 3:50 p.m. EST.

**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 * <input type="text" value="Jeffrey"/>	Last Name * <input type="text" value="Davis"/>
Title * <input type="text" value="VP and Deputy General Counsel"/>	
E-mail * <input type="text" value="jeffrey.davis@nasdaqomx.com"/>	
Telephone * <input type="text" value="(301) 978-8484"/>	Fax <input type="text" value="(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.

(Title \*)

Date <input type="text" value="04/09/2014"/>	Executive Vice President and General Counsel
By <input type="text" value="Edward S. Knight"/>	<input type="text"/>
(Name *)	

Persona Not Validated - 1383935917270,

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.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF 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 \***

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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, 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

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 Proposed Rule Change

(a) The NASDAQ Stock Market LLC (“NASDAQ” or the “Exchange”), proposes to amend Exchange Rule 4754 governing the NASDAQ Closing Cross (“Cross”) to accommodate changes in market structure triggered by Phase 2 of the Plan to Address Extraordinary Market Volatility submitted to the Securities and Exchange Commission (the “Commission”) pursuant to Rule 608 of Regulation NMS (“LULD Plan”). Specifically, NASDAQ proposes to clarify the rule governing the operation of the Cross in circumstances where a pause triggered under the LULD Plan would be triggered after 3:50 p.m. EST.

Changes to the rule text are shown in the attached Exhibit 5. A copy of this filing is available on the Exchange’s website at <http://nasdaq.cchwallstreet.com>, at NASDAQ’s principal office, and at the Commission’s Public Reference Room.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of NASDAQ on June 23, 2013. No other action by NASDAQ is necessary for the filing of the rule change.

Questions regarding this rule filing may be directed to Jeffrey S. Davis, Deputy General Counsel, The NASDAQ OMX Group, Inc., at (301) 978-8484 (telephone) or (301) 978-8472 (fax).

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

(a) Purpose

**Background.** As set forth in detail in prior filings, on May 31, 2012, the Commission approved the LULD Plan, as amended, as a one-year pilot, which began on April 8, 2013.<sup>1</sup> The LULD Plan is designed to prevent trades in individual NMS Stocks from occurring outside of specified Price Bands calculated and disseminated by the Network Processors.<sup>2</sup>

Under Phase 2 (Amendment No. 6) of the Plan,<sup>3</sup> the Plan's operative time is to be extended from 3:45 p.m. until 4:00 p.m.; full implementation of Phase 2 was scheduled to take effect on February 24, 2014. In anticipation of the February 24<sup>th</sup> implementation date, NASDAQ proposed to establish the LULD Closing Cross, an alternate mechanism to close a security that is subject to a Trading Pause within the last ten minutes of regular trading. The Commission approved that proposal on February 21, 2014.<sup>4</sup> However, NASDAQ delayed final implementation of Phase 2 for NASDAQ-listed securities<sup>5</sup> when the final industry-wide test of the new LULD Closing Cross failed to meet NASDAQ's

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<sup>1</sup> See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4-631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility). Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

<sup>2</sup> See Section (V)(A) of the LULD Plan.

<sup>3</sup> See Securities Exchange Act Release No. 71247 (January 7, 2014), 79 FR 2204 (January 13, 2014) (File No. 4-631).

<sup>4</sup> See Securities Exchange Act Release No. 71597 (Feb. 21, 2014), 79 FR 11169 (Feb. 27, 2014) (SR-NASDAQ-2014-004).

<sup>5</sup> Phase 2 of the LULD Plan was implemented for securities listed on other exchanges as planned on February 24, 2014.

testing standards. NASDAQ conducted successful, additional testing on March 15 and 22, 2014 and plans further testing on April 12, 2014. Assuming all testing is successful, NASDAQ would complete final implementation of Phase 2 of the LULD Plan shortly thereafter, on a date to be announced to all market participants through a widely disseminated notice.

During the testing conducted to date, NASDAQ has identified several minor, technical clarifications to the approved rule governing the LULD Closing Cross, NASDAQ Rule 4754(b)(6), as well as the description of that rule in SR-NASDAQ-2014-004. First, NASDAQ is clarifying the timing of the commencement of the After Hours Trading session and the treatment of Good-til-Cancelled (“GTC”) orders in the event the LULD Closing Cross is delayed until 5:00 p.m. due to continuing volatility. In the approved proposal, NASDAQ stated:

If this condition persists until 5:00 p.m., NASDAQ will not conduct an LULD Closing Cross in that security and shall instead use the last-sale on NASDAQ as the NASDAQ Official Closing Price in that security for that trading day. In that event, all orders will be cancelled back to the entering firms, and after hours trading will begin at 5:00 p.m.<sup>6</sup>

In addition, Rule 4754 states that “After Hours Trading shall commence after the LULD Closing Cross executes unless the volatility condition persists until 5:00 p.m. in which case there will [*sic*] After Hours Trading will begin at 5:00 p.m.”<sup>7</sup> and “NASDAQ shall continue disseminating the NOII every five seconds until the execution of the LULD Closing Cross or until 5:00 p.m. whichever is later.”<sup>8</sup>

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<sup>6</sup> 79 FR at 2494.

<sup>7</sup> Rule 4754(b)(6)(A)(iii).

<sup>8</sup> Rule 4754(a)(6)(B).

In fact, the process of cancelling orders would not be instantaneous, and After Hours Trading would begin only when the process is complete. Moreover, all orders are not automatically cancelled back to the entering firm. GTC orders require special treatment due to the fact that firms presume that they will remain on the book overnight, potentially over many nights. The actual process is better described as follows:

If this condition persists until 5:00 p.m., NASDAQ will not conduct an LULD Closing Cross in that security and shall instead use the last-sale on NASDAQ as the NASDAQ Official Closing Price in that security for that trading day. In that event, NASDAQ will commence a process of cancelling all orders (other than orders with a time-in-force of good-till-cancelled) back to the entering firms, and after hours trading will commence upon the completion of that process. In the case of both Market Hours GTC orders and Good-til-Market Close orders, the orders will be removed from the continuous book and placed in a suspended state. Entering firms will have the option to cancel those orders or allow them to be re-entered into the system on the following trading day.<sup>9</sup>

The second clarification relates to the entry of orders during an LULD Trading Pause prior to and after 4:00 p.m. Rule 4754, as approved, states that:

After 4:00pm, entry of *market orders* is prohibited. New Imbalance Only Orders may also be entered and modified to increase shares represented, but can't be cancelled during the pause.<sup>10</sup>

In fact, NASDAQ should have said that entry of market pegged orders, rather than market orders, is prohibited after 4:00 p.m. As provided in Rule 4751, a market pegged order is an order whose price is pegged to the opposite side of the market. In addition, NASDAQ rules do not currently define a market order. By omitting the word “pegged”, the proposal improperly implied that NASDAQ’s system otherwise accepts

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<sup>9</sup> Similarly, NASDAQ is amending Rule 4754(b)(6)(A)(iii) and (B) to describe the timing of the commencement of After Hours Trading and the treatment of GTC orders in circumstances where an LULD Closing Cross has not occurred by 5:00 p.m.

<sup>10</sup> Rule 4754(b)(6)(C)(iii) (emphasis added).

market orders at this or any other time of day. Accordingly, NASDAQ is proposing to modify the text of the rule to make this clarification.

The third clarification also relates to the entry of orders during the LULD Trading Pause. Rule 4754, as approved, states that:

During the pause and prior to 4:00pm, new market and limit orders of any order type and any time in force may be entered, modified, and cancelled and may participate in the LULD Closing Cross.<sup>11</sup>

The words “market and limit” in this context was inadvertently confusing in two ways. First, as stated above, NASDAQ rules do not define “market” orders as such. Therefore, the inclusion of that term is erroneous. Second, the reference to orders of any type or time in force is vague. It is clearer in this context to describe what is prohibited rather than what is permitted. Finally, the use of “market and limit” could be read to refer to Market on Close and Limit on Close orders. However, as otherwise provided in Rule 4754, MOC and LOC orders may not be submitted after 3:50:00, and NASDAQ was not proposing to modify this restriction. Accordingly, for the avoidance of doubt, NASDAQ proposes to clarify the treatment of MOC and LOC orders as follows:

During the pause and prior to 4:00pm, new orders (other than MOC and LOC orders, which may not be submitted after 3:50) may be entered, modified, and cancelled and may participate in the LULD Closing Cross.

NASDAQ believes that this modification will make clearer to members that, as in all circumstances, MOC and LOC orders cannot be cancelled after 3:50 p.m. without special intervention by NASDAQ personnel, and that they cannot be cancelled after 3:55 p.m. under any circumstances.

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<sup>11</sup> Id.

Finally, NASDAQ is modifying the text of Rule 4754(b)(6) to replace a statement that a stock subject to a Trading Pause will “open” with a more accurate statement that the stock will “resume trading” and is amending Rule 4754(b)(6)(C)(iii) to correct a typographical error.

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>13</sup> in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposal is consistent with this provision in that it will ensure that the Exchange will comply with the LULD Plan. The LULD Closing Cross, as originally proposed, is designed to balance the need for transparency and liquidity with the need to move quickly from a Trading Pause to a closing price. NASDAQ believes that it has accomplished these goals to the maximum extent possible. The Exchange also believes that the proposed clarifications, which are minor and technical in nature, are consistent with the Act in that they make clearer the existing Exchange rules and the obligations those rule impose on members.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is specifically designed to comply with the LULD Plan and, thereby, to ensure cooperation between and among all national securities

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<sup>12</sup> 15 U.S.C. 78f (b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

exchanges and FINRA to promote uniform and effective regulation of the national market system. In actuality, the proposal is pro-competitive because it promotes fair and orderly markets and investor protection, which in turn will buttress investor confidence and attract more investors into U.S. equities markets.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of any time period for Commission action.

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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>15</sup> in that the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) 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; provided the self-regulatory organization has given 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

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

rule change, or such shorter time as designated by the Commission. NASDAQ provided written notice of the proposed rule change on March 28, 2014.

NASDAQ believes that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. Rather, the proposed rule change makes minor and technical clarifications to the previously approved text of Rule 4754. That rule, in turn, is designed to ensure that the Exchange continues to comply with the LULD Plan while providing for an effective pricing mechanism for the critical period of the market close. Similarly, the change does not impose any burden on competition, but rather is designed to ensure cooperation between and among all national securities exchanges and FINRA to promote uniform and effective regulation of the national market system.

NASDAQ requests that the Commission waive the operative delay provided for by Rule 19b-4(f)(6)(iii). Assuming that further testing of the LULD Closing Cross in April 2014 is successful, NASDAQ would propose to launch the LULD Closing Cross functionality shortly thereafter. Waiver of the operative delay will ensure that the text of Rule 4754 fully conforms to the operation of the LULD Closing Cross when it is ready to launch. Waiver of the operative delay for the minor changes proposed herein will ensure that these changes do not provide a basis for further delay in the implementation of the LULD Closing Cross and Phase 2 of the Plan, which have already been approved by the Commission.

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

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

Exhibit 1 –Form of Notice of Proposed Rule Change for Federal Register

Exhibit 5 –Text of Proposed Changes

**EXHIBIT 1**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. \_\_\_\_\_ ; File No. SR-NASDAQ-2014-036)

April \_\_, 2014

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change to Clarify the Rule Governing the Operation of the Closing Cross in Circumstances Where a Pause Triggered Under the LULD Plan Would be Triggered After 3:50 p.m. EST

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 9, 2014, 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

(a) The Exchange proposes to amend Exchange Rule 4754 governing the NASDAQ Closing Cross (“Cross”) to accommodate changes in market structure triggered by Phase 2 of the Plan to Address Extraordinary Market Volatility submitted to the Commission pursuant to Rule 608 of Regulation NMS (“LULD Plan”). Specifically, NASDAQ proposes to clarify the rule governing the operation of the Cross in circumstances where a pause triggered under the LULD Plan would be triggered after 3:50 p.m. EST.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Changes to the rule text are shown in the attached Exhibit 5. A copy of this filing is available on the Exchange's website at <http://nasdaq.cchwallstreet.com>, at NASDAQ's principal office, and at the Commission's Public Reference Room.

(b) Not applicable.

(c) Not applicable.

The text of the proposed rule change is available on the Exchange's Website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

**Background.** As set forth in detail in prior filings, on May 31, 2012, the Commission approved the LULD Plan, as amended, as a one-year pilot, which began on April 8, 2013.<sup>3</sup> The LULD Plan is designed to prevent trades in individual NMS Stocks

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<sup>3</sup> See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4-631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility). Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

from occurring outside of specified Price Bands calculated and disseminated by the Network Processors.<sup>4</sup>

Under Phase 2 (Amendment No. 6) of the Plan,<sup>5</sup> the Plan's operative time is to be extended from 3:45 p.m. until 4:00 p.m.; full implementation of Phase 2 was scheduled to take effect on February 24, 2014. In anticipation of the February 24<sup>th</sup> implementation date, NASDAQ proposed to establish the LULD Closing Cross, an alternate mechanism to close a security that is subject to a Trading Pause within the last ten minutes of regular trading. The Commission approved that proposal on February 21, 2014.<sup>6</sup> However, NASDAQ delayed final implementation of Phase 2 for NASDAQ-listed securities<sup>7</sup> when the final industry-wide test of the new LULD Closing Cross failed to meet NASDAQ's testing standards. NASDAQ conducted successful, additional testing on March 15 and 22, 2014 and plans further testing on April 12, 2014. Assuming all testing is successful, NASDAQ would complete final implementation of Phase 2 of the LULD Plan shortly thereafter, on a date to be announced to all market participants through a widely disseminated notice.

During the testing conducted to date, NASDAQ has identified several minor, technical clarifications to the approved rule governing the LULD Closing Cross, NASDAQ Rule 4754(b)(6), as well as the description of that rule in SR-NASDAQ-2014-

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<sup>4</sup> See Section (V)(A) of the LULD Plan.

<sup>5</sup> See Securities Exchange Act Release No. 71247 (January 7, 2014), 79 FR 2204 (January 13, 2014) (File No. 4-631).

<sup>6</sup> See Securities Exchange Act Release No. 71597 (Feb. 21, 2014), 79 FR 11169 (Feb. 27, 2014) (SR-NASDAQ-2014-004).

<sup>7</sup> Phase 2 of the LULD Plan was implemented for securities listed on other exchanges as planned on February 24, 2014.

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If this condition persists until 5:00 p.m., NASDAQ will not conduct an LULD Closing Cross in that security and shall instead use the last-sale on NASDAQ as the NASDAQ Official Closing Price in that security for that trading day. In that event, all orders will be cancelled back to the entering firms, and after hours trading will begin at 5:00 p.m.<sup>8</sup>

In addition, Rule 4754 states that “After Hours Trading shall commence after the LULD Closing Cross executes unless the volatility condition persists until 5:00 p.m. in which case there will [*sic*] After Hours Trading will begin at 5:00 p.m.”<sup>9</sup> and “NASDAQ shall continue disseminating the NOII every five seconds until the execution of the LULD Closing Cross or until 5:00 p.m. whichever is later.”<sup>10</sup>

In fact, the process of cancelling orders would not be instantaneous, and After Hours Trading would begin only when the process is complete. Moreover, all orders are not automatically cancelled back to the entering firm. GTC orders require special treatment due to the fact that firms presume that they will remain on the book overnight, potentially over many nights. The actual process is better described as follows:

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<sup>8</sup> 79 FR at 2494.

<sup>9</sup> Rule 4754(b)(6)(A)(iii).

<sup>10</sup> Rule 4754(a)(6)(B).

If this condition persists until 5:00 p.m., NASDAQ will not conduct an LULD Closing Cross in that security and shall instead use the last-sale on NASDAQ as the NASDAQ Official Closing Price in that security for that trading day. In that event, NASDAQ will commence a process of cancelling all orders (other than orders with a time-in-force of good-till-cancelled) back to the entering firms, and after hours trading will commence upon the completion of that process. In the case of both Market Hours GTC orders and Good-til-Market Close orders, the orders will be removed from the continuous book and placed in a suspended state. Entering firms will have the option to cancel those orders or allow them to be re-entered into the system on the following trading day.<sup>11</sup>

The second clarification relates to the entry of orders during an LULD Trading Pause prior to and after 4:00 p.m. Rule 4754, as approved, states that:

After 4:00pm, entry of *market orders* is prohibited. New Imbalance Only Orders may also be entered and modified to increase shares represented, but can't be cancelled during the pause.<sup>12</sup>

In fact, NASDAQ should have said that entry of market pegged orders, rather than market orders, is prohibited after 4:00 p.m. As provided in Rule 4751, a market pegged order is an order whose price is pegged to the opposite side of the market. In addition, NASDAQ rules do not currently define a market order. By omitting the word “pegged”, the proposal improperly implied that NASDAQ’s system otherwise accepts market orders at this or any other time of day. Accordingly, NASDAQ is proposing to modify the text of the rule to make this clarification.

The third clarification also relates to the entry of orders during the LULD Trading Pause. Rule 4754, as approved, states that:

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<sup>11</sup> Similarly, NASDAQ is amending Rule 4754(b)(6)(A)(iii) and (B) to describe the timing of the commencement of After Hours Trading and the treatment of GTC orders in circumstances where an LULD Closing Cross has not occurred by 5:00 p.m.

<sup>12</sup> Rule 4754(b)(6)(C)(iii) (emphasis added).

During the pause and prior to 4:00pm, new market and limit orders of any order type and any time in force may be entered, modified, and cancelled and may participate in the LULD Closing Cross.<sup>13</sup>

The words “market and limit” in this context was inadvertently confusing in two ways. First, as stated above, NASDAQ rules do not define “market” orders as such. Therefore, the inclusion of that term is erroneous. Second, the reference to orders of any type or time in force is vague. It is clearer in this context to describe what is prohibited rather than what is permitted. Finally, the use of “market and limit” could be read to refer to Market on Close and Limit on Close orders. However, as otherwise provided in Rule 4754, MOC and LOC orders may not be submitted after 3:50:00, and NASDAQ was not proposing to modify this restriction. Accordingly, for the avoidance of doubt, NASDAQ proposes to clarify the treatment of MOC and LOC orders as follows:

During the pause and prior to 4:00pm, new orders (other than MOC and LOC orders, which may not be submitted after 3:50) may be entered, modified, and cancelled and may participate in the LULD Closing Cross.

NASDAQ believes that this modification will make clearer to members that, as in all circumstances, MOC and LOC orders cannot be cancelled after 3:50 p.m. without special intervention by NASDAQ personnel, and that they cannot be cancelled after 3:55 p.m. under any circumstances.

Finally, NASDAQ is modifying the text of Rule 4754(b)(6) to replace a statement that a stock subject to a Trading Pause will “open” with a more accurate statement that the stock will “resume trading” and is amending Rule 4754(b)(6)(C)(iii) to correct a typographical error.

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<sup>13</sup>

Id.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>15</sup> in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposal is consistent with this provision in that it will ensure that the Exchange will comply with the LULD Plan. The LULD Closing Cross, as originally proposed, is designed to balance the need for transparency and liquidity with the need to move quickly from a Trading Pause to a closing price. NASDAQ believes that it has accomplished these goals to the maximum extent possible. The Exchange also believes that the proposed clarifications, which are minor and technical in nature, are consistent with the Act in that they make clearer the existing Exchange rules and the obligations those rule impose on members

### 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 that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is specifically designed to comply with the LULD Plan and, thereby, to ensure cooperation between and among all national securities exchanges and FINRA to promote uniform and effective regulation of the national market system. In actuality, the proposal is pro-competitive because it promotes fair and orderly

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<sup>14</sup> 15 U.S.C. 78f (b).

<sup>15</sup> 15 U.S.C. 78f(b)(5).

markets and investor protection, which in turn will buttress investor confidence and attract more investors into U.S. equities markets.

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 has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b-4(f)(6) thereunder. Because the 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 after its filing date, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2014-036 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-2014-036. 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-2014-036 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.<sup>16</sup>

Kevin M O'Neill  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

Proposed new language is underlined. Proposed deletions are in [brackets]. Rule changes are marked based upon the language proposed in SR-NASDAQ-2014-004. That proposal was approved on February 21, 2014, but it has not been implemented. *See* Securities Exchange Act Release No. 71597; 79 F.R. 11169 (Feb. 27, 2014).

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**NASDAQ Equity Rules**

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**Rule 4754. Nasdaq Closing Cross**

(a) No change.

(b)

(1) – (5) No change.

(6) LULD Closing Cross Following Limit-Up-Limit-Down Trading Pause. When a Trading Pause pursuant to Rule 4120(a)(12) is triggered at or after 3:50 p.m. and before 4:00 p.m., the stock shall [open] resume trading via a modified NASDAQ Closing Cross (“LULD Closing Cross”). The LULD Closing Cross shall operate as defined in this rule with the following exceptions:

(A) (i) For Trading Pauses triggered at or after 3:50 and before 4:00 p.m., the LULD Closing Cross shall occur at 4:00 p.m. After Hours Trading shall commence after the LULD Closing Cross executes.

(ii) If there is insufficient trading interest in the NASDAQ system to execute a LULD Closing Cross, NASDAQ will not conduct a Cross in that security and shall instead use the last sale on NASDAQ as the NASDAQ Official Closing Price in that security for that trading day. After Hours Trading shall commence after NASDAQ publishes the NASDAQ Official Closing Price.

(iii) If an order imbalance as defined in Rule 4120(c)(7)(C) (1) and (3) exists at the time designated for the LULD Closing Cross to occur, NASDAQ shall extend the time of the LULD Closing Cross by one minute until the order imbalance no longer exists. If this condition persists until 5:00 p.m., NASDAQ will not conduct a Cross in that security and shall instead use the last-sale on NASDAQ as the NASDAQ Official Closing Price in that security for that trading day. After Hours Trading shall commence after the LULD Closing Cross executes, unless the volatility condition persists until 5:00 p.m. [in which case there will After Hours Trading will begin at 5:00 p.m.] In that case, NASDAQ will

commence a process of cancelling all orders (other than orders with a time-in-force of good-till-cancelled), and After Hours Trading will commence upon the completion of that process.

(B) NASDAQ shall continue disseminating the NOII every five seconds until [the execution of the LULD Closing Cross or until 5:00 p.m. whichever is later] After Hours Trading begins. The Near Price, Far Price, and Reference Prices contained in the NOII will all represent the price at which the LULD Closing Cross would execute should the cross conclude at that time. If marketable buy (sell) shares would remain unexecuted above (below) the Near Clearing Price or Far Clearing Price, Nasdaq shall disseminate an indicator for "market buy" or "market sell".

(C) Orders eligible to participate:

(i) In the event of an LULD Closing Cross, MOC, LOC and IO orders intended for the closing cross entered into the system and placed on the book prior to 3:50 p.m. will remain on the book to participate in the LULD Closing Cross. Such orders may not be modified or cancelled.

(ii) All orders entered into the system and placed on the continuous book prior to the LULD pause will remain on the book to participate in the LULD Closing Cross. Such orders may be modified or cancelled up until the time of the LULD Closing Cross.

(iii) During the pause and prior to 4:00pm, new [market and limit] orders [of any order type and any time in force] (other than MOC or LOC orders, which may not be submitted after 3:50) may be entered, modified, and cancelled and may participate in the LULD Closing Cross. After 4:00pm, entry of market pegged orders is prohibited. New Imbalance Only Orders may also be entered and modified to increase shares represented, but can't be cancelled during the pause.

(D) No Change.

(7) No Change.

(A) – (F) No Change.

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