

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 42	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2017 - * 074	Amendment No. (req. for Amendments *)
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 checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>	
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input 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"/>			
Description				
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).				
<input type="text" value="Proposal to adopt the Midpoint Extended Life Order."/>				
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="Sean"/>	Last Name *	<input type="text" value="Bennett"/>	
Title *	<input type="text" value="Principal Associate General Counsel"/>			
E-mail *	<input type="text" value="Sean.Bennett@nasdaq.com"/>			
Telephone *	<input type="text" value="(301) 978-8499"/>	Fax	<input type="text"/>	
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="07/21/2017"/>	<input type="text" value="Executive Vice President and General Counsel"/>		
By	<input type="text" value="Edward S. Knight"/>	<input type="text"/>		
(Name *)				
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.				
<input type="button" value="edward.knight@nasdaq.com"/>				

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 *

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

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 the Proposed Rule Change

(a) The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to adopt the Midpoint Extended Life Order.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change has not yet been approved by the Board of Directors of the Exchange (“Board”). Once it has obtained Board approval, the Exchange plans to file a technical amendment to this proposed rule change to reflect that approval. Once Board approval is obtained, no further action by the Exchange in connection with this proposed rule change will be required..

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

T. Sean Bennett
Principal Associate General Counsel
Nasdaq, Inc.
(301) 978-8499

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The U.S. equities markets are the envy of the world because they are singularly effective at attracting and allocating capital to innovative companies that create millions of jobs and trillions of dollars of shareholder value, companies like Apple, Google, Facebook, Amazon, Cisco Systems, Gilead, and thousands of other Nasdaq issuers. As the listing venue and the steward of the market on which they are listed, Nasdaq is compelled to make innovative changes to better the quality of the market, to the benefit of issuers and the people that invest in issuers' securities.

As discussed in detail below, Nasdaq is proposing to adopt the Midpoint Extended Life Order as a new Order Type³ available to all members, and by extension to their customers, which will reward market participants that commit to a minimum half-second period ("Holding Period"), during which their order remains unchanged. Midpoint Extended Life Orders provide a mechanism by which market participants may receive a midpoint execution with other Midpoint Extended Life Orders that have also met the same Holding Period requirement. Like Nasdaq's Extended Life Order

³ The term "Order" means an instruction to trade a specified number of shares in a specified System Security submitted to the Nasdaq Market Center by a Participant. An "Order Type" is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. An "Order Attribute" is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. The available Order Types and Order Attributes, and the Order Attributes that may be associated with particular Order Types, are described in Rules 4702 and 4703. One or more Order Attributes may be assigned to a single Order; provided, however, that if the use of multiple Order Attributes would provide contradictory instructions to an Order, the System will reject the Order or remove non-conforming Order Attributes. See Rule 4701(e).

Attribute,⁴ Nasdaq is continuing its drive to provide innovative solutions to increase participation on the market by a broader array of investors. Nasdaq proposed the Extended Life Order Attribute as a first step in broadening participation on the market by providing priority to retail orders that often have longer term investment horizons. The Extended Life Order Attribute provides retail market participants a mechanism by which they have more opportunity to participate effectively at the prevailing market price when transactions occur. Nasdaq is now proposing a new Order Type that will allow *all* market participants to more effectively execute longer term investment strategies – the Midpoint Extended Life Order.

Background

The Exchange operates based on a price/display/time priority execution algorithm.⁵ Simply put, the first displayed order at a price has priority over the next order and so on (this is also sometimes referred to as “First In First Out” or “FIFO”). All displayed orders have priority over non-displayed orders at a price level. Midpoint Orders are non-displayed⁶ and allow participants to receive price improvement by executing against other non-displayed liquidity at the midpoint of the National Best Bid and Offer (“NBBO”). Nasdaq believes that some market participants that are looking for

⁴ See Securities Exchange Act Release No. 81097 (July 7, 2017), 82 FR 32386 (July 13, 2017) (SR-NASDAQ-2016-161).

⁵ See Rule 4757.

⁶ Display is an Order Attribute that allows the price and size of an Order to be displayed to market participants via market data feeds. Certain Order Types may be non-displayed if they are not assigned a Display Order Attribute, and all non-displayed Orders may be referred to as “Non-Displayed Orders.” In contrast, an Order with a Display Order Attribute may be referred to as a “Displayed Order.” See Rule 4703(k).

executions at the midpoint often have a longer investment horizon (i.e., long term investors), many of which are seeking both the best execution possible at the midpoint of the NBBO and are not necessarily measuring execution quality solely by each tick by tick change in market price. Some of these market participants with large-sized Orders are seeking to gain such an execution while minimizing market impact.

Over time, as order placement competition on Nasdaq has grown, the time that it takes for market participants to react to changes in the markets has decreased significantly. In addition, orders that access resting liquidity on exchanges have decreased in size due to the fragmented nature of the broader market and the adoption of algorithmic trading. As a result of this decrease in reaction time and size of orders, Nasdaq, and the equities markets in general, have become incredibly efficient. The nature of today's equities markets, however, have made it difficult for certain market participants that have longer term investment horizons and that focus on minimizing market impact rather than optimizing for queue placement. This is particularly true for market participants that are attempting to trade large-sized Orders.⁷

Nasdaq weighed various ideas on how to augment the interaction on Nasdaq to meet the needs of these underserved market participants. Nasdaq believes that it is better to provide incentives that protect midpoint Orders by improving execution quality without impacting the ability to manage risk and to reduce the potential for order

⁷ Nasdaq notes that market participants with large-sized Orders and that are not necessarily monitoring small changes in the NBBO or time to execution, include "Institutional" investors. Institutional investors are generally characterized as large entities that make investments on behalf of their owners or investors, such as pension funds and mutual funds. Nonetheless, Nasdaq believes that Midpoint Extended Life Orders will provide benefit to a wide array of market participants. As noted above, Midpoint Extended Life Orders are available to all Nasdaq members.

adjustment and cancellation, rather than apply blanket artificial latency mechanisms that apply to *all* Orders, which may distort or have unintended consequences on market quality such as disadvantaging displayed Orders. Nasdaq is proposing to address the needs of market participants that focus their trading on receiving midpoint execution where time to execution is less important when working to meet their long term investment needs. As discussed in detail below, Nasdaq is proposing to provide the Midpoint Extended Life Order as a voluntary option by which these market participants may participate on Nasdaq in return for allowing their orders to exist unchanged for a certain time.

Proposal

The Exchange is proposing to adopt a new Order Type that will allow all market participants that are less concerned with time to execution to receive executions at the midpoint of the NBBO, while deemphasizing speed as a factor in achieving the execution. Specifically, the Midpoint Extended Life Order is an Order Type with a Non-Display Order Attribute⁸ that is priced at the midpoint between the NBBO and that will not be eligible to execute until the Holding Period of one half of a second has passed after acceptance of the Order by the System.⁹ The Holding Period represents a level of market risk that the market participant has assumed in order to receive a midpoint execution with other Midpoint Extended Life Orders, which have also met the Holding Period requirement. Moreover, the Holding Period mitigates risk that a market participant may

⁸ See note 6, supra.

⁹ As noted above, a Midpoint Extended Life Order must remain unchanged for the Holding Period. If a Midpoint Extended Life Order is modified by a member during the Holding Period, the System will restart the Holding Period.

attempt to access other Midpoint Extended Life Orders just prior to a move in the NBBO, thereby potentially negatively affecting the price at which the contra-side Midpoint Extended Life Order would receive. In order to allow members to effectively manage risk, a Midpoint Extended Life Order may be cancelled at any time.

Once a Midpoint Extended Life Order becomes eligible to execute by existing unchanged for the Holding Period, the Order may only execute against other eligible Midpoint Extended Life Orders. Like other midpoint pegged Orders,¹⁰ once the Midpoint Extended Life Order is eligible, a buy (sell) Midpoint Extended Life Order will be ranked in time order at the midpoint among other buy (sell) Midpoint Extended Life Orders. As discussed above, limiting interaction of Midpoint Extended Life Orders to other Midpoint Extended Life Orders mitigates the impact that these orders will have on the market and allows market participants entering such orders an increased chance of receiving a full execution at the midpoint of the NBBO at a given time. Importantly, limiting interaction of Midpoint Extended Life Orders ensures fairness because all Midpoint Extended Life Orders have met the same Holding Period requirement, thereby ensuring that members with Midpoint Extended Life Order are not disadvantaged by non-Midpoint Extended Life Orders entered by participant that have the benefit of knowing, and reacting to, the current state of the market.

A Midpoint Extended Life Order may be assigned a limit price. A limit price restricts the price at which an order may execute such that an order to sell may not execute below a certain price and an order to buy may not execute above a certain price. If a market participant assigns a limit price to its Midpoint Extended Life Order, the

¹⁰ See also Rule 4703(d).

Order will be: (1) eligible for execution in time priority if upon acceptance of the Order by the System and during the Holding Period thereafter, the midpoint price is within the limit set by the participant; or (2) held until the midpoint falls within the limit set by the participant at which time the Holding Period will commence and thereafter the System will make the Order eligible for execution in time priority if the midpoint price remains within the limit set by the participant during the Holding Period. For example, if the Best Bid was \$11 and the Best Offer was \$11.06, the price of the Midpoint Extended Life Order would be \$11.03. If a participant enters a Midpoint Extended Life Order to buy with a limit of \$11.02, the Holding Period would not begin until the midpoint price is executable at \$11.02 (i.e., the midpoint of the NBBO).¹¹ If a member takes an action on the Order (e.g., amend, revise) the System will re-start the clock based on the same criteria.

Similar to other Orders with midpoint pegging,¹² Midpoint Extended Life Orders are only available for execution during Market Hours¹³ and they may not be designated

¹¹ If a Midpoint Extended Life Order has met the Holding Period requirement but the midpoint is no longer within its limit, it will nonetheless be ranked in time priority among other Midpoint Extended Life Orders if the NBBO later moves such that it is within the Order's limit price.

¹² See, e.g., Rule 4702(b)(5); see also Rule 4703(d).

¹³ Market Hours begin after the completion of the Nasdaq Opening Cross (or at 9:30 a.m. ET in the case of a security for which no Nasdaq Opening Cross occurs). See Rule 4703(a). Nasdaq limits midpoint orders to Market Hours because, among other things, it believes that demand for such Orders is limited to Market Hours, since the wider spreads generally prevail during Pre-Market and Post-Market Hours trading sessions. See notes 15 and 16, infra. Wider spreads would result in execution prices more at variance from the NBBO than would be the case during Market Hours.

with a time-in-force of Immediate or Cancel (IOC),¹⁴ since the IOC Time In Force, by its nature, are inconsistent with the Holding Period requirement of the proposal. If a Midpoint Extended Life Order is entered during Pre-Market Hours,¹⁵ the System will hold the Order until completion of the Opening Cross, ranked in the time that it was received. If a Midpoint Extended Life Order is entered during Post-Market Hours,¹⁶ it will be rejected by the System. Midpoint Extended Life Orders are not eligible for the Nasdaq Opening, Halt and Closing Crosses, and any Midpoint Extended Life Orders that have not been executed by the end of Market Hours will be cancelled.¹⁷ Midpoint Extended Life Orders in existence at the time a Halt Cross is initiated will be ineligible to execute and held by the System until trading has resumed and the NBBO has been received by Nasdaq. Also, like other Orders with midpoint pegging, a Midpoint Extended Life Order may be executed in sub-pennies if necessary to obtain a midpoint price.¹⁸ Last, a Midpoint Extended Life Order must be entered with a size of at least one round lot, which will promote size in Midpoint Extended Life Orders and provide members with the most efficient processing of Midpoint Extended Life Orders. Any

¹⁴ See Rule 4703(a)(1).

¹⁵ The term “Pre-Market Hours” means the period of time beginning at 4:00 a.m. ET and ending immediately prior to the commencement of Market Hours. See Rule 4701(g).

¹⁶ The term “Post-Market Hours” means the period of time beginning immediately after the end of Market Hours and ending at 8:00 p.m. ET. See Rule 4701(g).

¹⁷ See Rule 4703(d).

¹⁸ Id. A sub-penny limit price entered by a member would not be accepted by the System.

shares of a Midpoint Extended Life Order remaining after an execution that are less than a round lot will be cancelled by the System.

A Midpoint Extended Life Order may have a Minimum Quantity Order Attribute.¹⁹ Like other Orders with a Minimum Quantity Order Attribute, if an eligible Midpoint Extended Life Order has a Minimum Quantity Order Attribute and an eligible contra-side Midpoint Extended Life Order does not meet the quantity requirement, neither Order will execute. If another Midpoint Extended Life Order is ranked in priority behind the Midpoint Extended Life Order with a Minimum Quantity Order Attribute, it will execute against the contra-interest instead, if it is otherwise marketable.

As discussed above, unlike certain delay mechanisms available on other exchanges, use of the proposed Midpoint Extended Life Order is wholly voluntary, and thus does not subject all members to the Holding Period. As a consequence, there is no distortive impact on market data as Midpoint Extended Life Order would be trade reported like any other Order. Moreover, members will not need to take any special steps to implement Midpoint Extended Life Orders, since it is an Order Type. In this regard, members, Securities Information Processors and market data consumers will not need to make any changes to their systems to account for Midpoint Extended Life Orders in market data because they will be reported the same as other midpoint Orders, without any new or special indication. In sum, the Midpoint Extended Life Order is a simple

¹⁹ Minimum Quantity is an Order Attribute that allows a Participant to provide that an Order will not execute unless a specified minimum quantity of shares can be obtained. A Participant may designate that the minimum quantity condition be satisfied by execution against multiple Orders or a single Order. See Rule 4703(e).

mechanism by which Nasdaq can broaden its ecosystem of participants with little impact to the operation of the markets.

Implementation

Nasdaq plans to implement Midpoint Extended Life Orders within thirty days after Commission approval of the proposal. Nasdaq will make the Midpoint Extended Life Order available to all members and to all securities upon implementation. Nasdaq will announce the implementation date by Equity Trader Alert.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,²¹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Nasdaq believes that the proposed change is consistent with this provision of the Act because it is emblematic of a core function of a national securities exchange, namely matching buyers and sellers of securities on a transparent and well-regulated market, and helping these buyers and sellers come together to receive the best execution possible. Nasdaq is achieving this by permitting Midpoint Extended Life Orders to execute solely against other Midpoint Extended Life Orders at the midpoint of the NBBO in return for providing market-improving behavior in the form of a longer-lived midpoint order. As noted above, Nasdaq believes that programmatic or intentional delays for all incoming

²⁰ 15 U.S.C. 78f(b).

²¹ 15 U.S.C. 78f(b)(5).

Orders irrespective of trading objectives and regardless as to whether it is displayed or non-displayed, insert complexity into the market and are detrimental to overall market structure. By contrast, Nasdaq's proposal seeks to provide a simple mechanism by which market participants with longer investment horizons are able to source liquidity at the midpoint of the NBBO. Importantly, Midpoint Extended Life Orders will be available to all members, yet are wholly voluntary.

The proposed Midpoint Extended Life Order will provide members an opportunity to execute at the midpoint, only interacting with other Midpoint Extended Life Orders, in return for allowing their Orders to remain unchanged for the Holding Period. As Nasdaq has noted before, a great deal of the liquidity that is provided on exchanges is from market makers and automated liquidity providers, who have invested in technology and efficiency, which has resulted in many positive developments such as deep and liquid markets. Nasdaq is implementing Midpoint Extended Life Orders to increase access to, and participation on, Nasdaq for investors that are less concerned with time to execution, but rather are looking to source liquidity, often in greater size, at the midpoint of the NBBO against a contra-party Order that has met the same objectives. Currently, these market participants are underweighted or do not represent these Orders on Nasdaq, and the Midpoint Extended Life Order will provide additional tools to allow them to more effectively implement their investment strategies. Additionally, Midpoint Extended Life Orders will provide these participants with the many benefits provided by a well-regulated exchange, including transparency through publicly available rules, certainty surrounding trade execution, and market surveillance. Midpoint Extended Life Orders is wholly voluntary, available to all members, and does not subject all members to

the Holding Period regardless of time horizon or investment objective, unlike certain delay mechanisms available on other exchanges. The Midpoint Extended Life Order is a simple mechanism by which Nasdaq can broaden its ecosystem of participants with little impact to the operation of the markets.

The Exchange believes that markets and price discovery best function through the interactions of a diverse set of market participants. The Exchange also believes that the evolution of the markets which have brought many beneficial efficiencies have also made it difficult for some market participants to participate on the Exchange. The differentiation proposed herein by Nasdaq is not designed to permit unfair discrimination, but instead to promote increased participation on the Exchange by market participants that find it difficult to do so today and provide improved execution quality for market participants that are less concerned with time to execution. The Exchange believes that the transparency and competitiveness of offering Midpoint Extended Life Orders on a registered national securities exchange will result in a better execution experience for all investors.

The Exchange notes that other market participants that enter orders that would otherwise be eligible to execute against a midpoint order will not be able to execute against a Midpoint Extended Life Order. The Exchange believes that this is not unfairly discriminatory because any market participant may enter a Midpoint Extended Life Order, thereby providing them access to other Midpoint Extended Life Orders. The Exchange notes that the statutory standard under Section 6(b)(5) of the Act is that the proposed change not discriminate *unfairly*. Nasdaq does not believe that providing an Order Type available to all members discriminates unfairly. To the contrary, Nasdaq

believes that the Midpoint Extended Life Order will provide members with choice and more opportunities to interact on Nasdaq. Moreover, Nasdaq believes that much of the Midpoint Extended Life Orders will be entered by participants that typically do not enter Orders on Nasdaq for the reasons noted above. As a consequence, the Exchange does not believe that the current depth of liquidity on the Nasdaq will be impacted negatively, but rather Midpoint Extended Life Orders will provide members with the opportunity to interact in new ways on the Exchange. Consequently, the Exchange does not believe the proposed change discriminates unfairly.

The Exchange also believes that the proposal will improve the ecosystem of market participants on Nasdaq. Midpoint orders generally provide price improvement to both sides to a trade, with each party sharing the “spread” between the bid and ask. Midpoint Extended Life Orders will also provide this benefit, but in a manner that will allow the market participants to execute against other Midpoint Extended Life Orders that have met the same Holding Period criteria. Since both sides of a Midpoint Extended Life Order execution are subject to the Holding Period, it does not discriminate or provide unfair advantages to either side of the trade. This mechanism will ensure that the Midpoint Extended Life Order is fair, by not allowing a side to the transaction to have an advantage based on timing. Moreover, the Exchange believes that Midpoint Extended Life Orders should draw new market participants to Nasdaq’s transparent and well-regulated market. Nasdaq, like other national securities exchanges, is subject to the requirements of the Exchange Act, is regulated by the Commission, is subject to inspection by the Commission, and must have transparent and fair rules applied to all of its members.

Nasdaq believes that requiring Midpoint Extended Life Orders to exist unaltered for at least one half a second is a meaningful time, representing a significant level of risk taken by the market participant in return for the ability to receive a midpoint execution with other Midpoint Extended Life Orders, which have also met the Holding Period requirement. Although, one could argue that every stock is unique in the amount of time that represents a meaningful level of risk, the Exchange believes that implementing a program with individualized time requirements would be overly complex and would ultimately be too cumbersome for the industry to adopt. The Exchange came to the same conclusion in designing the requirements of the ELO Order Attribute. As Nasdaq noted in its ELO Order Attribute proposal, the concept of rewarding market participants that provide Orders that live for a certain minimum time is currently used in Canada by the Toronto Stock Exchange. Named the “Long Life” order type, it is designed to enhance the quality of execution for natural investors and their dealers by rewarding those willing to commit liquidity to the book for a minimum period of time and by enabling participants to gain priority in return for a longer resting time.²² Compliance with the Holding Period will be enforced by the System, and transactions in Midpoint Extended Life Orders will be reported to the Securities Information Processor and will be provided in Nasdaq’s proprietary data feed in the same manner as all other transactions occurring on Nasdaq are done currently, namely, without any new or special indication that it is a Midpoint Extended Life Order execution.

²² See <https://www.tmx.com/newsroom/press-releases?id=352>; see also http://www.osc.gov.on.ca/documents/en/Marketplaces/xxr-tsx_20150818_amd-rule-book-policies.pdf (Notice of Approval).

As stated previously, the Exchange believes that the proposed change will benefit market participants that have longer term investment horizons and that often seek liquidity at the midpoint of the NBBO. Moreover, Nasdaq does not believe that the proposed Midpoint Extended Life Order will negatively affect the quality of the market because the Exchange anticipates the Order Type will draw new market participants to the Exchange, which are currently underserved. If the Exchange is incorrect, there are many substitutes in the market where market participants can send their orders. There are twelve other exchanges, over thirty registered Alternative Trading Systems, and many other non-registered off-exchange trading platforms, which a participant may choose to use if the execution quality on Nasdaq suffers due to the introduction of Midpoint Extended Life Orders.

As the Commission noted in approving the exchange application of Investors Exchange LLC, the Exchange Act does not foreclose reasonable and not unfairly discriminatory innovations, including those that are designed to protect investors who seek to reliably place passive, non-displayed pegged orders on an exchange.²³ For the reasons noted above, Nasdaq believes that the proposed Midpoint Extended Life Order further perfects the mechanism of a free and open market, promotes competition, broadens participation on Nasdaq, and considers the cost/benefit of implementation.

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

Nasdaq recognizes that participants that invest in capabilities that allow them to drive price formation by repeatedly improving the NBBO on the Exchange bring tremendous value to the market by providing efficient prices, lowering costs for

²³ See Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41142, 41157 (June 23, 2016) (File No. 10-222).

individual investors, and supporting price formation and stability for securities listed on Nasdaq and other U.S. exchanges. Nasdaq believes that Midpoint Extended Life Orders can coexist with existing participation strategies on Nasdaq to the benefit of all Exchange participants. As discussed above, the Exchange believes that the Midpoint Extended Life Order will draw new market participants to Nasdaq, with which existing market participants may interact by using the Midpoint Extended Life Order. For this reason, Nasdaq 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. Rather, Nasdaq believes that the proposed change increases competition and therefore improves participation by allowing certain market participants that may currently be underserved on regulated exchanges to compete based on elements other than speed. Specifically, the proposed change will allow market participants that have not invested in limit order queue placement but rather take risk by allowing their midpoint Order to exist unchanged for the Holding Period to have the ability to execute against other such Orders that have rested unchanged for the same duration. Although market participants that choose not to submit Midpoint Extended Life Orders will not have the opportunity to interact with such Orders, Nasdaq notes that this is solely the choice of the member since the Midpoint Extended Life Order is available to all members but its use is not compulsory. Additionally, adoption of Midpoint Extended Life Orders will not burden any market participants, including those that choose not to use these Orders, because no changes need to be made to their systems to account for Midpoint Extended Life Orders. As discussed above, Midpoint Extended Life Orders will be reported the same as other midpoint Orders, without any new or special indicator.

The Exchange believes that increasing participation on Nasdaq will always serve to improve the overall ecosystem on the Exchange. To the extent that the proposal can bring additional order flow from different segments of the market with different long term investment goals to the Exchange, all market participants will benefit. Thus, the aim of the Proposal is not to disadvantage any one set of market participant, but rather to promote a healthy and inclusive market that will benefit all market participants, including those that currently contribute significant liquidity to the Exchange. Nasdaq believes Midpoint Extended Life Orders will provide a mechanism by which certain market participants that struggle to receive a midpoint execution at the NBBO at any given moment the opportunity to receive such an execution, while also providing existing participants an opportunity to interact with these new participants through a Midpoint Extended Life Order.

The Exchange notes that it operates in a highly competitive market in which market participants can readily choose between competing venues if they deem participation in Nasdaq's market is no longer desirable. In such an environment, the Exchange must carefully consider the impact that any change it proposes may have on its participants, understanding that it will likely lose participants to the extent a change is viewed as unfavorable by them. Because competitors are free to modify the incentives and structure of their markets, the Exchange believes that the degree to which modifying the market structure of an individual market may impose any burden on competition is limited. Last, to the extent the proposed change is successful in attracting additional market participants, Nasdaq also believes that the proposed change will promote

competition among trading venues by making Nasdaq a more attractive trading venue for long-term investors and therefore capital formation.

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

The Exchange does not consent to an extension of the 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)

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.

5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2017-074)

July __, 2017

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change to Adopt the Midpoint Extended Life Order

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 July 21, 2017, The NASDAQ Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to adopt the Midpoint Extended Life Order.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The U.S. equities markets are the envy of the world because they are singularly effective at attracting and allocating capital to innovative companies that create millions of jobs and trillions of dollars of shareholder value, companies like Apple, Google, Facebook, Amazon, Cisco Systems, Gilead, and thousands of other Nasdaq issuers. As the listing venue and the steward of the market on which they are listed, Nasdaq is compelled to make innovative changes to better the quality of the market, to the benefit of issuers and the people that invest in issuers' securities.

As discussed in detail below, Nasdaq is proposing to adopt the Midpoint Extended Life Order as a new Order Type³ available to all members, and by extension to their customers, which will reward market participants that commit to a minimum half-second period ("Holding Period"), during which their order remains unchanged.

³ The term "Order" means an instruction to trade a specified number of shares in a specified System Security submitted to the Nasdaq Market Center by a Participant. An "Order Type" is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. An "Order Attribute" is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. The available Order Types and Order Attributes, and the Order Attributes that may be associated with particular Order Types, are described in Rules 4702 and 4703. One or more Order Attributes may be assigned to a single Order; provided, however, that if the use of multiple Order Attributes would provide contradictory instructions to an Order, the System will reject the Order or remove non-conforming Order Attributes. See Rule 4701(e).

Midpoint Extended Life Orders provide a mechanism by which market participants may receive a midpoint execution with other Midpoint Extended Life Orders that have also met the same Holding Period requirement. Like Nasdaq's Extended Life Order Attribute,⁴ Nasdaq is continuing its drive to provide innovative solutions to increase participation on the market by a broader array of investors. Nasdaq proposed the Extended Life Order Attribute as a first step in broadening participation on the market by providing priority to retail orders that often have longer term investment horizons. The Extended Life Order Attribute provides retail market participants a mechanism by which they have more opportunity to participate effectively at the prevailing market price when transactions occur. Nasdaq is now proposing a new Order Type that will allow *all* market participants to more effectively execute longer term investment strategies – the Midpoint Extended Life Order.

Background

The Exchange operates based on a price/display/time priority execution algorithm.⁵ Simply put, the first displayed order at a price has priority over the next order and so on (this is also sometimes referred to as “First In First Out” or “FIFO”). All displayed orders have priority over non-displayed orders at a price level. Midpoint Orders are non-displayed⁶ and allow participants to receive price improvement by

⁴ See Securities Exchange Act Release No. 81097 (July 7, 2017), 82 FR 32386 (July 13, 2017) (SR-NASDAQ-2016-161).

⁵ See Rule 4757.

⁶ Display is an Order Attribute that allows the price and size of an Order to be displayed to market participants via market data feeds. Certain Order Types may be non-displayed if they are not assigned a Display Order Attribute, and all non-displayed Orders may be referred to as “Non-Displayed Orders.” In contrast, an

executing against other non-displayed liquidity at the midpoint of the National Best Bid and Offer (“NBBO”). Nasdaq believes that some market participants that are looking for executions at the midpoint often have a longer investment horizon (i.e., long term investors), many of which are seeking both the best execution possible at the midpoint of the NBBO and are not necessarily measuring execution quality solely by each tick by tick change in market price. Some of these market participants with large-sized Orders are seeking to gain such an execution while minimizing market impact.

Over time, as order placement competition on Nasdaq has grown, the time that it takes for market participants to react to changes in the markets has decreased significantly. In addition, orders that access resting liquidity on exchanges have decreased in size due to the fragmented nature of the broader market and the adoption of algorithmic trading. As a result of this decrease in reaction time and size of orders, Nasdaq, and the equities markets in general, have become incredibly efficient. The nature of today’s equities markets, however, have made it difficult for certain market participants that have longer term investment horizons and that focus on minimizing market impact rather than optimizing for queue placement. This is particularly true for market participants that are attempting to trade large-sized Orders.⁷

Order with a Display Order Attribute may be referred to as a “Displayed Order.”
See Rule 4703(k).

⁷ Nasdaq notes that market participants with large-sized Orders and that are not necessarily monitoring small changes in the NBBO or time to execution, include “Institutional” investors. Institutional investors are generally characterized as large entities that make investments on behalf of their owners or investors, such as pension funds and mutual funds. Nonetheless, Nasdaq believes that Midpoint Extended Life Orders will provide benefit to a wide array of market participants. As noted above, Midpoint Extended Life Orders are available to all Nasdaq members.

Nasdaq weighed various ideas on how to augment the interaction on Nasdaq to meet the needs of these underserved market participants. Nasdaq believes that it is better to provide incentives that protect midpoint Orders by improving execution quality without impacting the ability to manage risk and to reduce the potential for order adjustment and cancellation, rather than apply blanket artificial latency mechanisms that apply to *all* Orders, which may distort or have unintended consequences on market quality such as disadvantaging displayed Orders. Nasdaq is proposing to address the needs of market participants that focus their trading on receiving midpoint execution where time to execution is less important when working to meet their long term investment needs. As discussed in detail below, Nasdaq is proposing to provide the Midpoint Extended Life Order as a voluntary option by which these market participants may participate on Nasdaq in return for allowing their orders to exist unchanged for a certain time.

Proposal

The Exchange is proposing to adopt a new Order Type that will allow all market participants that are less concerned with time to execution to receive executions at the midpoint of the NBBO, while deemphasizing speed as a factor in achieving the execution. Specifically, the Midpoint Extended Life Order is an Order Type with a Non-Display Order Attribute⁸ that is priced at the midpoint between the NBBO and that will not be eligible to execute until the Holding Period of one half of a second has passed after

⁸ See note 6, supra.

acceptance of the Order by the System.⁹ The Holding Period represents a level of market risk that the market participant has assumed in order to receive a midpoint execution with other Midpoint Extended Life Orders, which have also met the Holding Period requirement. Moreover, the Holding Period mitigates risk that a market participant may attempt to access other Midpoint Extended Life Orders just prior to a move in the NBBO, thereby potentially negatively affecting the price at which the contra-side Midpoint Extended Life Order would receive. In order to allow members to effectively manage risk, a Midpoint Extended Life Order may be cancelled at any time.

Once a Midpoint Extended Life Order becomes eligible to execute by existing unchanged for the Holding Period, the Order may only execute against other eligible Midpoint Extended Life Orders. Like other midpoint pegged Orders,¹⁰ once the Midpoint Extended Life Order is eligible, a buy (sell) Midpoint Extended Life Order will be ranked in time order at the midpoint among other buy (sell) Midpoint Extended Life Orders. As discussed above, limiting interaction of Midpoint Extended Life Orders to other Midpoint Extended Life Orders mitigates the impact that these orders will have on the market and allows market participants entering such orders an increased chance of receiving a full execution at the midpoint of the NBBO at a given time. Importantly, limiting interaction of Midpoint Extended Life Orders ensures fairness because all Midpoint Extended Life Orders have met the same Holding Period requirement, thereby ensuring that members with Midpoint Extended Life Order are not disadvantaged by non-

⁹ As noted above, a Midpoint Extended Life Order must remain unchanged for the Holding Period. If a Midpoint Extended Life Order is modified by a member during the Holding Period, the System will restart the Holding Period.

¹⁰ See also Rule 4703(d).

Midpoint Extended Life Orders entered by participant that have the benefit of knowing, and reacting to, the current state of the market.

A Midpoint Extended Life Order may be assigned a limit price. A limit price restricts the price at which an order may execute such that an order to sell may not execute below a certain price and an order to buy may not execute above a certain price. If a market participant assigns a limit price to its Midpoint Extended Life Order, the Order will be: (1) eligible for execution in time priority if upon acceptance of the Order by the System and during the Holding Period thereafter, the midpoint price is within the limit set by the participant; or (2) held until the midpoint falls within the limit set by the participant at which time the Holding Period will commence and thereafter the System will make the Order eligible for execution in time priority if the midpoint price remains within the limit set by the participant during the Holding Period. For example, if the Best Bid was \$11 and the Best Offer was \$11.06, the price of the Midpoint Extended Life Order would be \$11.03. If a participant enters a Midpoint Extended Life Order to buy with a limit of \$11.02, the Holding Period would not begin until the midpoint price is executable at \$11.02 (i.e., the midpoint of the NBBO).¹¹ If a member takes an action on the Order (e.g., amend, revise) the System will re-start the clock based on the same criteria.

Similar to other Orders with midpoint pegging,¹² Midpoint Extended Life Orders are only available for execution during Market Hours¹³ and they may not be designated

¹¹ If a Midpoint Extended Life Order has met the Holding Period requirement but the midpoint is no longer within its limit, it will nonetheless be ranked in time priority among other Midpoint Extended Life Orders if the NBBO later moves such that it is within the Order's limit price.

¹² See, e.g., Rule 4702(b)(5); see also Rule 4703(d).

with a time-in-force of Immediate or Cancel (IOC),¹⁴ since the IOC Time In Force, by its nature, are inconsistent with the Holding Period requirement of the proposal. If a Midpoint Extended Life Order is entered during Pre-Market Hours,¹⁵ the System will hold the Order until completion of the Opening Cross, ranked in the time that it was received. If a Midpoint Extended Life Order is entered during Post-Market Hours,¹⁶ it will be rejected by the System. Midpoint Extended Life Orders are not eligible for the Nasdaq Opening, Halt and Closing Crosses, and any Midpoint Extended Life Orders that have not been executed by the end of Market Hours will be cancelled.¹⁷ Midpoint Extended Life Orders in existence at the time a Halt Cross is initiated will be ineligible to execute and held by the System until trading has resumed and the NBBO has been received by Nasdaq. Also, like other Orders with midpoint pegging, a Midpoint Extended Life Order may be executed in sub-pennies if necessary to obtain a midpoint

¹³ Market Hours begin after the completion of the Nasdaq Opening Cross (or at 9:30 a.m. ET in the case of a security for which no Nasdaq Opening Cross occurs). See Rule 4703(a). Nasdaq limits midpoint orders to Market Hours because, among other things, it believes that demand for such Orders is limited to Market Hours, since the wider spreads generally prevail during Pre-Market and Post-Market Hours trading sessions. See notes 15 and 16, infra. Wider spreads would result in execution prices more at variance from the NBBO than would be the case during Market Hours.

¹⁴ See Rule 4703(a)(1).

¹⁵ The term “Pre-Market Hours” means the period of time beginning at 4:00 a.m. ET and ending immediately prior to the commencement of Market Hours. See Rule 4701(g).

¹⁶ The term “Post-Market Hours” means the period of time beginning immediately after the end of Market Hours and ending at 8:00 p.m. ET. See Rule 4701(g).

¹⁷ See Rule 4703(d).

price.¹⁸ Last, a Midpoint Extended Life Order must be entered with a size of at least one round lot, which will promote size in Midpoint Extended Life Orders and provide members with the most efficient processing of Midpoint Extended Life Orders. Any shares of a Midpoint Extended Life Order remaining after an execution that are less than a round lot will be cancelled by the System.

A Midpoint Extended Life Order may have a Minimum Quantity Order Attribute.¹⁹ Like other Orders with a Minimum Quantity Order Attribute, if an eligible Midpoint Extended Life Order has a Minimum Quantity Order Attribute and an eligible contra-side Midpoint Extended Life Order does not meet the quantity requirement, neither Order will execute. If another Midpoint Extended Life Order is ranked in priority behind the Midpoint Extended Life Order with a Minimum Quantity Order Attribute, it will execute against the contra-interest instead, if it is otherwise marketable.

As discussed above, unlike certain delay mechanisms available on other exchanges, use of the proposed Midpoint Extended Life Order is wholly voluntary, and thus does not subject all members to the Holding Period. As a consequence, there is no distortive impact on market data as Midpoint Extended Life Order would be trade reported like any other Order. Moreover, members will not need to take any special steps to implement Midpoint Extended Life Orders, since it is an Order Type. In this regard, members, Securities Information Processors and market data consumers will not need to

¹⁸ Id. A sub-penny limit price entered by a member would not be accepted by the System.

¹⁹ Minimum Quantity is an Order Attribute that allows a Participant to provide that an Order will not execute unless a specified minimum quantity of shares can be obtained. A Participant may designate that the minimum quantity condition be satisfied by execution against multiple Orders or a single Order. See Rule 4703(e).

make any changes to their systems to account for Midpoint Extended Life Orders in market data because they will be reported the same as other midpoint Orders, without any new or special indication. In sum, the Midpoint Extended Life Order is a simple mechanism by which Nasdaq can broaden its ecosystem of participants with little impact to the operation of the markets.

Implementation

Nasdaq plans to implement Midpoint Extended Life Orders within thirty days after Commission approval of the proposal. Nasdaq will make the Midpoint Extended Life Order available to all members and to all securities upon implementation. Nasdaq will announce the implementation date by Equity Trader Alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,²¹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Nasdaq believes that the proposed change is consistent with this provision of the Act because it is emblematic of a core function of a national securities exchange, namely matching buyers and sellers of securities on a transparent and well-regulated market, and helping these buyers and sellers come together to receive the best execution possible. Nasdaq is achieving this by permitting Midpoint Extended Life Orders to execute solely against

²⁰ 15 U.S.C. 78f(b).

²¹ 15 U.S.C. 78f(b)(5).

other Midpoint Extended Life Orders at the midpoint of the NBBO in return for providing market-improving behavior in the form of a longer-lived midpoint order. As noted above, Nasdaq believes that programmatic or intentional delays for all incoming Orders irrespective of trading objectives and regardless as to whether it is displayed or non-displayed, insert complexity into the market and are detrimental to overall market structure. By contrast, Nasdaq's proposal seeks to provide a simple mechanism by which market participants with longer investment horizons are able to source liquidity at the midpoint of the NBBO. Importantly, Midpoint Extended Life Orders will be available to all members, yet are wholly voluntary.

The proposed Midpoint Extended Life Order will provide members an opportunity to execute at the midpoint, only interacting with other Midpoint Extended Life Orders, in return for allowing their Orders to remain unchanged for the Holding Period. As Nasdaq has noted before, a great deal of the liquidity that is provided on exchanges is from market makers and automated liquidity providers, who have invested in technology and efficiency, which has resulted in many positive developments such as deep and liquid markets. Nasdaq is implementing Midpoint Extended Life Orders to increase access to, and participation on, Nasdaq for investors that are less concerned with time to execution, but rather are looking to source liquidity, often in greater size, at the midpoint of the NBBO against a contra-party Order that has met the same objectives. Currently, these market participants are underweighted or do not represent these Orders on Nasdaq, and the Midpoint Extended Life Order will provide additional tools to allow them to more effectively implement their investment strategies. Additionally, Midpoint Extended Life Orders will provide these participants with the many benefits provided by

a well-regulated exchange, including transparency through publicly available rules, certainty surrounding trade execution, and market surveillance. Midpoint Extended Life Orders is wholly voluntary, available to all members, and does not subject all members to the Holding Period regardless of time horizon or investment objective, unlike certain delay mechanisms available on other exchanges. The Midpoint Extended Life Order is a simple mechanism by which Nasdaq can broaden its ecosystem of participants with little impact to the operation of the markets.

The Exchange believes that markets and price discovery best function through the interactions of a diverse set of market participants. The Exchange also believes that the evolution of the markets which have brought many beneficial efficiencies have also made it difficult for some market participants to participate on the Exchange. The differentiation proposed herein by Nasdaq is not designed to permit unfair discrimination, but instead to promote increased participation on the Exchange by market participants that find it difficult to do so today and provide improved execution quality for market participants that are less concerned with time to execution. The Exchange believes that the transparency and competitiveness of offering Midpoint Extended Life Orders on a registered national securities exchange will result in a better execution experience for all investors.

The Exchange notes that other market participants that enter orders that would otherwise be eligible to execute against a midpoint order will not be able to execute against a Midpoint Extended Life Order. The Exchange believes that this is not unfairly discriminatory because any market participant may enter a Midpoint Extended Life Order, thereby providing them access to other Midpoint Extended Life Orders. The

Exchange notes that the statutory standard under Section 6(b)(5) of the Act is that the proposed change not discriminate *unfairly*. Nasdaq does not believe that providing an Order Type available to all members discriminates unfairly. To the contrary, Nasdaq believes that the Midpoint Extended Life Order will provide members with choice and more opportunities to interact on Nasdaq. Moreover, Nasdaq believes that much of the Midpoint Extended Life Orders will be entered by participants that typically do not enter Orders on Nasdaq for the reasons noted above. As a consequence, the Exchange does not believe that the current depth of liquidity on the Nasdaq will be impacted negatively, but rather Midpoint Extended Life Orders will provide members with the opportunity to interact in new ways on the Exchange. Consequently, the Exchange does not believe the proposed change discriminates unfairly.

The Exchange also believes that the proposal will improve the ecosystem of market participants on Nasdaq. Midpoint orders generally provide price improvement to both sides to a trade, with each party sharing the “spread” between the bid and ask. Midpoint Extended Life Orders will also provide this benefit, but in a manner that will allow the market participants to execute against other Midpoint Extended Life Orders that have met the same Holding Period criteria. Since both sides of a Midpoint Extended Life Order execution are subject to the Holding Period, it does not discriminate or provide unfair advantages to either side of the trade. This mechanism will ensure that the Midpoint Extended Life Order is fair, by not allowing a side to the transaction to have an advantage based on timing. Moreover, the Exchange believes that Midpoint Extended Life Orders should draw new market participants to Nasdaq’s transparent and well-regulated market. Nasdaq, like other national securities exchanges, is subject to the

requirements of the Exchange Act, is regulated by the Commission, is subject to inspection by the Commission, and must have transparent and fair rules applied to all of its members.

Nasdaq believes that requiring Midpoint Extended Life Orders to exist unaltered for at least one half a second is a meaningful time, representing a significant level of risk taken by the market participant in return for the ability to receive a midpoint execution with other Midpoint Extended Life Orders, which have also met the Holding Period requirement. Although, one could argue that every stock is unique in the amount of time that represents a meaningful level of risk, the Exchange believes that implementing a program with individualized time requirements would be overly complex and would ultimately be too cumbersome for the industry to adopt. The Exchange came to the same conclusion in designing the requirements of the ELO Order Attribute. As Nasdaq noted in its ELO Order Attribute proposal, the concept of rewarding market participants that provide Orders that live for a certain minimum time is currently used in Canada by the Toronto Stock Exchange. Named the “Long Life” order type, it is designed to enhance the quality of execution for natural investors and their dealers by rewarding those willing to commit liquidity to the book for a minimum period of time and by enabling participants to gain priority in return for a longer resting time.²² Compliance with the Holding Period will be enforced by the System, and transactions in Midpoint Extended Life Orders will be reported to the Securities Information Processor and will be provided in Nasdaq’s proprietary data feed in the same manner as all other transactions occurring

²² See <https://www.tmx.com/newsroom/press-releases?id=352>; see also http://www.osc.gov.on.ca/documents/en/Marketplaces/xxr-tsx_20150818_amd-rule-book-policies.pdf (Notice of Approval).

on Nasdaq are done currently, namely, without any new or special indication that it is a Midpoint Extended Life Order execution.

As stated previously, the Exchange believes that the proposed change will benefit market participants that have longer term investment horizons and that often seek liquidity at the midpoint of the NBBO. Moreover, Nasdaq does not believe that the proposed Midpoint Extended Life Order will negatively affect the quality of the market because the Exchange anticipates the Order Type will draw new market participants to the Exchange, which are currently underserved. If the Exchange is incorrect, there are many substitutes in the market where market participants can send their orders. There are twelve other exchanges, over thirty registered Alternative Trading Systems, and many other non-registered off-exchange trading platforms, which a participant may choose to use if the execution quality on Nasdaq suffers due to the introduction of Midpoint Extended Life Orders.

As the Commission noted in approving the exchange application of Investors Exchange LLC, the Exchange Act does not foreclose reasonable and not unfairly discriminatory innovations, including those that are designed to protect investors who seek to reliably place passive, non-displayed pegged orders on an exchange.²³ For the reasons noted above, Nasdaq believes that the proposed Midpoint Extended Life Order further perfects the mechanism of a free and open market, promotes competition, broadens participation on Nasdaq, and considers the cost/benefit of implementation.

²³ See Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41142, 41157 (June 23, 2016) (File No. 10-222).

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

Nasdaq recognizes that participants that invest in capabilities that allow them to drive price formation by repeatedly improving the NBBO on the Exchange bring tremendous value to the market by providing efficient prices, lowering costs for individual investors, and supporting price formation and stability for securities listed on Nasdaq and other U.S. exchanges. Nasdaq believes that Midpoint Extended Life Orders can coexist with existing participation strategies on Nasdaq to the benefit of all Exchange participants. As discussed above, the Exchange believes that the Midpoint Extended Life Order will draw new market participants to Nasdaq, with which existing market participants may interact by using the Midpoint Extended Life Order. For this reason, Nasdaq 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. Rather, Nasdaq believes that the proposed change increases competition and therefore improves participation by allowing certain market participants that may currently be underserved on regulated exchanges to compete based on elements other than speed. Specifically, the proposed change will allow market participants that have not invested in limit order queue placement but rather take risk by allowing their midpoint Order to exist unchanged for the Holding Period to have the ability to execute against other such Orders that have rested unchanged for the same duration. Although market participants that choose not to submit Midpoint Extended Life Orders will not have the opportunity to interact with such Orders, Nasdaq notes that this is solely the choice of the member since the Midpoint Extended Life Order is available to all members but its use is not compulsory. Additionally, adoption of Midpoint Extended Life Orders will not burden any market participants, including those that choose not to use these Orders, because no

changes need to be made to their systems to account for Midpoint Extended Life Orders. As discussed above, Midpoint Extended Life Orders will be reported the same as other midpoint Orders, without any new or special indicator.

The Exchange believes that increasing participation on Nasdaq will always serve to improve the overall ecosystem on the Exchange. To the extent that the proposal can bring additional order flow from different segments of the market with different long term investment goals to the Exchange, all market participants will benefit. Thus, the aim of the Proposal is not to disadvantage any one set of market participant, but rather to promote a healthy and inclusive market that will benefit all market participants, including those that currently contribute significant liquidity to the Exchange. Nasdaq believes Midpoint Extended Life Orders will provide a mechanism by which certain market participants that struggle to receive a midpoint execution at the NBBO at any given moment the opportunity to receive such an execution, while also providing existing participants an opportunity to interact with these new participants through a Midpoint Extended Life Order.

The Exchange notes that it operates in a highly competitive market in which market participants can readily choose between competing venues if they deem participation in Nasdaq's market is no longer desirable. In such an environment, the Exchange must carefully consider the impact that any change it proposes may have on its participants, understanding that it will likely lose participants to the extent a change is viewed as unfavorable by them. Because competitors are free to modify the incentives and structure of their markets, the Exchange believes that the degree to which modifying the market structure of an individual market may impose any burden on competition is

limited. Last, to the extent the proposed change is successful in attracting additional market participants, Nasdaq also believes that the proposed change will promote competition among trading venues by making Nasdaq a more attractive trading venue for long-term investors and therefore capital formation.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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-2017-074 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2017-074. 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-2017-074 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.²⁴

Eduardo A. Aleman
Assistant Secretary

²⁴ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

NASDAQ Stock Market Rules

* * * * *

4702. Order Types.

(a) No change.

(b) Except where stated otherwise, the following Order Types are available to all Participants:

(1) – (13) No change.

(14)(A) A “Midpoint Extended Life Order” is an Order Type with a Non-Display Order Attribute that is priced at the midpoint between the NBBO and that will not be eligible to execute until a minimum period of one half of a second (“Holding Period”) has passed after acceptance of the Order by the System. Eligible Midpoint Extended Life Orders may only execute against other eligible Midpoint Extended Life Orders. Buy (sell) Midpoint Extended Life Orders will be ranked in time order at the midpoint among other Buy (Sell) Midpoint Extended Life Orders. A Midpoint Extended Life Order may be cancelled at any time.

If a limit price is assigned to a Midpoint Extended Life Order, the Order will be: (1) eligible for execution in time priority if upon acceptance of the Order by the System and during the Holding Period thereafter, the midpoint price is within the limit set by the participant; or (2) held until the midpoint falls within the limit set by the participant at which time the Holding Period will commence and thereafter the System will make the Order eligible for execution in time priority if the midpoint price remains within the limit set by the participant during the Holding Period. For example, if the Best Bid was \$11 and the Best Offer was \$11.06, the price of the Midpoint Extended Life Order would be \$11.03. If a participant enters a Midpoint Extended Life Order to buy with a limit of \$11.02, the Holding Period would not begin until the midpoint price reached \$11.02.

Midpoint Extended Life Orders in existence at the time a Halt Cross is initiated will be ineligible to execute and held by the System until trading has resumed and the NBBO has been received by Nasdaq.

(B) The following Order Attributes may be assigned to a Midpoint Extended Life Order:

- Price of more than \$1 per share.
- Minimum Quantity.
- Size.

• A Time-in-Force other than IOC; provided that regardless of the Time-in-Force entered, a Midpoint Extended Life Order may not be active outside of Market Hours. A Midpoint Extended Life Order entered during Pre-Market Hours will be held by the System in time priority until Market Hours. If a Midpoint Extended Life Order is entered during Post-Market Hours, it will be rejected by the System. A Midpoint Extended Life Order remaining unexecuted after 4:00 p.m. ET will be cancelled by the System.

• Non-Display. All Midpoint Extended Life Orders are Non-Displayed.

* * * * *