

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 22	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2018 - * 077 Amendment No. (req. for Amendments *)
----------------	--	--

Filing by The Nasdaq Stock Market LLC  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
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"/>
---	---

**Description**

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

A proposal to specify that an Order with a Minimum Quantity Order Attribute is ineligible to participate in the Nasdaq Opening, Halt or Closing Crosses and is not included in the calculation of the Cross price

**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 \* Sean Last Name \* Bennett  
 Title \* Principal Associate General Counsel  
 E-mail \* sean.bennett@nasdaq.com  
 Telephone \* (301) 978-8499 Fax

**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 \*)  
 Executive Vice President and General Counsel

Date 09/19/2018  
 By Edward S. Knight  
 (Name \*)

edward.knight@nasdaq.com

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 \***

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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to specify that an Order with a Minimum Quantity Order Attribute is ineligible to participate in the Nasdaq Opening, Halt or Closing Crosses and is not included in the calculation of the Cross price.

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b-4(f)(6)(iii).<sup>3</sup>

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange (the “Board”) on September 19, 2017. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

---

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6)(iii).

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

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

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

a. Purpose

The Exchange is proposing to specify that an Order<sup>4</sup> with a Minimum Quantity Order Attribute<sup>5</sup> is ineligible to participate in the Nasdaq Opening,<sup>6</sup> Halt<sup>7</sup> or Closing<sup>8</sup> Crosses (collectively, the "Nasdaq Crosses") and is not included in the calculation of the Cross price. 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. In 2011, the Exchange amended its rules concerning the Minimum Quantity

---

<sup>4</sup> 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).

<sup>5</sup> Id.

<sup>6</sup> See Rule 4752.

<sup>7</sup> See Rule 4753.

<sup>8</sup> See Rule 4754.

Order Attribute to remove a restriction from the rule, which only allowed Orders with a Minimum Quantity Order Attribute to immediately execute.<sup>9</sup> Thus, the proposed change allowed an Order with a Minimum Quantity Order Attribute to post to the Nasdaq Book<sup>10</sup> if it is not able to execute immediately and, once posted to the Nasdaq Book, the Order would execute if an incoming Order that is marketable against it would satisfy its minimum quantity requirement.<sup>11</sup> In proposing the new Order Attribute, the Exchange did not address participation of the Order Attribute in the Nasdaq Crosses; however, it never intended for Orders with a Minimum Quantity Order Attribute to participate in any of the Nasdaq Crosses. The Minimum Quantity Order Attribute allows market participants avoid transacting with smaller Orders that they believe ultimately increase the cost of the transaction. In particular, if a market participant that seeks to execute a large number of shares is able to execute in larger sizes, the contra-party to the execution is less likely to be a participant that reacts to short term changes in the stock price. As such, the price impact to the stock could be less acute when larger individual executions are obtained by the market participant. The Minimum Quantity Order Attribute is also designed to give a participant flexibility in whether its Order will receive partial executions in a volatile market. Because the Nasdaq Crosses offer a controlled price discovery process, flexibility and avoidance of small-sized executions is not required. In proposing the Minimum Quantity Order Attribute amendments in 2011, Nasdaq stated:

---

<sup>9</sup> See Securities Exchange Act Release No. 65536 (October 12, 2011), 76 FR 64411 (October 18, 2011) (SR-NASDAQ-2011-140).

<sup>10</sup> See Rule 4701(a)(1).

<sup>11</sup> See note 9, supra.

A Minimum Quantity Order provides a means by which a market participant may avoid partial executions of orders at sizes that it considers inadequate to achieve its purposes. For example, a market participant seeking to sell a large position in a trading session with high volatility may use the order type to avoid selling only a small portion of the order at the price it considers acceptable.<sup>12</sup>

Consequently, use of the Minimum Quantity Order Attribute outside of the continuous market is inconsistent with the purpose of this Order Attribute. Upon adoption of the Minimum Quantity Order Attribute amendments in 2011, the Exchange also clearly notified market participants via an Equity Trader Alert that Orders with a Minimum Quantity Order Attribute are ineligible to participate in the Nasdaq Crosses.<sup>13</sup>

In light of this ambiguity in the Rules,<sup>14</sup> the Exchange is proposing to specify that an Order with a Minimum Quantity Order Attribute is ineligible to participate in the Nasdaq Opening, Halt or Closing Crosses and is not included in the calculation of the Cross price.<sup>15</sup>

---

<sup>12</sup> See note 9, *supra* at 64412.

<sup>13</sup> Specifically, the Exchange provided a series of FAQ's, which included the following: "Can orders with Minimum Quantity instructions participate in auctions (i.e. open, halt, close)? No, orders with MinQty instructions will not participate in auctions (i.e. open, halt, close)." See Nasdaq Equity Trader Alert #2011-51 (available at: <http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2011-51>).

<sup>14</sup> Notwithstanding the ambiguity in the Rules, no market participant has requested participation of their Orders with a Minimum Quantity Order Attribute in any of the Nasdaq Crosses.

<sup>15</sup> The Exchange notes that it recently identified an issue with the handling of Orders with a Minimum Quantity Order Attribute, which allowed such Orders to participate in the Crosses but they were not included in the calculation of the

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>16</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>17</sup> 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, by specifying in its rules that an Order with a Minimum Quantity Order Attribute may not participate in the Nasdaq Crosses and is not included in the calculation of the Cross price. As described above, the Minimum Quantity Order Attribute allows market participants to avoid transacting with smaller Orders that they believe ultimately increase the cost of the transaction, particularly if they have a large number of shares to be executed. As such, the price impact to the stock could be less acute when larger individual executions are obtained by the market participant. The Minimum Quantity Order Attribute is also designed to give a participant flexibility in whether its Order will receive partial executions in a volatile market. Because the Nasdaq Crosses offer a controlled price

---

Cross price. See Nasdaq Market System Status Alert, August 24, 2018 and August 30, 2018 (available at: <http://www.nasdaqtrader.com/Trader.aspx?id=MarketSystemStatusSearch>). The Exchange further notes that neither the Rules concerning the Nasdaq Crosses nor the Minimum Quantity Rule addressed participation of Minimum Quantity Orders in the Nasdaq Crosses. To make the treatment consistent with the Exchange's original intent when implementing the new Order Attribute, the Exchange has determined to exclude Orders with a Minimum Quantity Order Attribute from both the calculation of the Cross price (which is currently the case) and possible execution in the Nasdaq Crosses. The Exchange is correcting the issue concurrent with the implementation of this proposed rule change.

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

discovery process, flexibility and avoidance of small-sized executions is not required.

The Exchange notes that no market participant has requested participation of their Orders with a Minimum Quantity Order Attribute in any of the Nasdaq Crosses. The proposed change will further perfect the Exchange's rules and protect investors and the public interest by avoiding any confusion caused by vague rules. Adding specificity to the rules with respect to Orders with a Minimum Quantity Order Attribute will ensure that the rule concerning this Order Attribute is consistent with the Exchange's intent upon its adoption.<sup>18</sup>

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change makes the Exchange's rules more specific by explicitly stating that an Order with a Minimum Quantity Order Attribute is ineligible to participate in the Nasdaq Opening, Halt or Closing Crosses and is not included in the calculation of the Cross price, which will enhance market participants' understanding of the operation of Orders with a Minimum Quantity Order Attribute in the Nasdaq Crosses. Moreover, the proposed change is consistent with the intent of the Order Attribute. As described above, the Minimum Quantity Order Attribute is designed to help market participants reduce costs of executing large-sized Orders, which otherwise may execute in many small transactions, each potentially increasing the price of the transaction. The Nasdaq Crosses provide a controlled price discovery process, in which the control and flexibility of the Minimum Quantity Order Attribute is not needed. The Exchange notes

---

<sup>18</sup> See note 13, supra.



that no market participant has requested participation of the Minimum Quantity Order Attribute in any of the Nasdaq Crosses. Accordingly, the proposed rule change does not implicate competition whatsoever.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)<sup>19</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>20</sup> in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

As noted above, the proposed change promotes the protection of investors and the public interest because it provides specificity to an otherwise vague rule, making it consistent with the original intent of a rule change that created the ambiguity. The proposed change also promotes the protection of investors and the public interest because the control and flexibility provided by the Minimum Quantity Order Attribute is not

---

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

needed in the price discovery process of the Nasdaq Crosses. Also as noted above, the proposal does not impose any significant burden on competition, but rather does not implicate competition whatsoever.

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

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that the Exchange may implement the proposed change as soon as possible. As described above, the Exchange's rules are ambiguous with respect to the participation of Orders with a Minimum Quantity Order Attribute in the Nasdaq Crosses. Waiver of the operative delay will allow the Exchange to make its rules more specific to address the ambiguity at the earliest possible time and concurrent with changes to the System consistent with the proposed rule text.

The Exchange anticipates implementing these System changes by September 24, 2018.

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-2018-077)

September \_\_, 2018

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Minimum Quantity Order Attribute

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 September 19, 2018, 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 specify that an Order with a Minimum Quantity Order Attribute is ineligible to participate in the Nasdaq Opening, Halt or Closing Crosses and is not included in the calculation of the Cross price

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.

---

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

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange is proposing to specify that an Order<sup>3</sup> with a Minimum Quantity Order Attribute<sup>4</sup> is ineligible to participate in the Nasdaq Opening,<sup>5</sup> Halt<sup>6</sup> or Closing<sup>7</sup> Crosses (collectively, the "Nasdaq Crosses") and is not included in the calculation of the Cross price. Minimum Quantity is an Order Attribute that allows a Participant to provide

---

<sup>3</sup> 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).

<sup>4</sup> Id.

<sup>5</sup> See Rule 4752.

<sup>6</sup> See Rule 4753.

<sup>7</sup> See Rule 4754.

that an Order will not execute unless a specified minimum quantity of shares can be obtained. In 2011, the Exchange amended its rules concerning the Minimum Quantity Order Attribute to remove a restriction from the rule, which only allowed Orders with a Minimum Quantity Order Attribute to immediately execute.<sup>8</sup> Thus, the proposed change allowed an Order with a Minimum Quantity Order Attribute to post to the Nasdaq Book<sup>9</sup> if it is not able to execute immediately and, once posted to the Nasdaq Book, the Order would execute if an incoming Order that is marketable against it would satisfy its minimum quantity requirement.<sup>10</sup> In proposing the new Order Attribute, the Exchange did not address participation of the Order Attribute in the Nasdaq Crosses; however, it never intended for Orders with a Minimum Quantity Order Attribute to participate in any of the Nasdaq Crosses. The Minimum Quantity Order Attribute allows market participants avoid transacting with smaller Orders that they believe ultimately increase the cost of the transaction. In particular, if a market participant that seeks to execute a large number of shares is able to execute in larger sizes, the contra-party to the execution is less likely to be a participant that reacts to short term changes in the stock price. As such, the price impact to the stock could be less acute when larger individual executions are obtained by the market participant. The Minimum Quantity Order Attribute is also designed to give a participant flexibility in whether its Order will receive partial executions in a volatile market. Because the Nasdaq Crosses offer a controlled price

---

<sup>8</sup> See Securities Exchange Act Release No. 65536 (October 12, 2011), 76 FR 64411 (October 18, 2011) (SR-NASDAQ-2011-140).

<sup>9</sup> See Rule 4701(a)(1).

<sup>10</sup> See note 8, *supra*.

discovery process, flexibility and avoidance of small-sized executions is not required. In proposing the Minimum Quantity Order Attribute amendments in 2011, Nasdaq stated:

A Minimum Quantity Order provides a means by which a market participant may avoid partial executions of orders at sizes that it considers inadequate to achieve its purposes. For example, a market participant seeking to sell a large position in a trading session with high volatility may use the order type to avoid selling only a small portion of the order at the price it considers acceptable.<sup>11</sup>

Consequently, use of the Minimum Quantity Order Attribute outside of the continuous market is inconsistent with the purpose of this Order Attribute. Upon adoption of the Minimum Quantity Order Attribute amendments in 2011, the Exchange also clearly notified market participants via an Equity Trader Alert that Orders with a Minimum Quantity Order Attribute are ineligible to participate in the Nasdaq Crosses.<sup>12</sup>

In light of this ambiguity in the Rules,<sup>13</sup> the Exchange is proposing to specify that an Order with a Minimum Quantity Order Attribute is ineligible to participate in the

---

<sup>11</sup> See note 8, *supra* at 64412.

<sup>12</sup> Specifically, the Exchange provided a series of FAQ's, which included the following: "Can orders with Minimum Quantity instructions participate in auctions (i.e. open, halt, close)? No, orders with MinQty instructions will not participate in auctions (i.e. open, halt, close)." See Nasdaq Equity Trader Alert #2011-51 (available at: <http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2011-51>).

<sup>13</sup> Notwithstanding the ambiguity in the Rules, no market participant has requested participation of their Orders with a Minimum Quantity Order Attribute in any of the Nasdaq Crosses.

Nasdaq Opening, Halt or Closing Crosses and is not included in the calculation of the Cross price.<sup>14</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>15</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>16</sup> 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, by specifying in its rules that an Order with a Minimum Quantity Order Attribute may not participate in the Nasdaq Crosses and is not included in the calculation of the Cross price. As described above, the Minimum Quantity Order Attribute allows market participants to avoid transacting with smaller Orders that they believe ultimately increase the cost of the transaction, particularly if they have a large number of shares to be executed. As such, the price impact to the stock could be less acute when larger individual executions are

---

<sup>14</sup> The Exchange notes that it recently identified an issue with the handling of Orders with a Minimum Quantity Order Attribute, which allowed such Orders to participate in the Crosses but they were not included in the calculation of the Cross price. See Nasdaq Market System Status Alert, August 24, 2018 and August 30, 2018 (available at: <http://www.nasdaqtrader.com/Trader.aspx?id=MarketSystemStatusSearch>). The Exchange further notes that neither the Rules concerning the Nasdaq Crosses nor the Minimum Quantity Rule addressed participation of Minimum Quantity Orders in the Nasdaq Crosses. To make the treatment consistent with the Exchange's original intent when implementing the new Order Attribute, the Exchange has determined to exclude Orders with a Minimum Quantity Order Attribute from both the calculation of the Cross price (which is currently the case) and possible execution in the Nasdaq Crosses. The Exchange is correcting the issue concurrent with the implementation of this proposed rule change.

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).



obtained by the market participant. The Minimum Quantity Order Attribute is also designed to give a participant flexibility in whether its Order will receive partial executions in a volatile market. Because the Nasdaq Crosses offer a controlled price discovery process, flexibility and avoidance of small-sized executions is not required. The Exchange notes that no market participant has requested participation of their Orders with a Minimum Quantity Order Attribute in any of the Nasdaq Crosses. The proposed change will further perfect the Exchange's rules and protect investors and the public interest by avoiding any confusion caused by vague rules. Adding specificity to the rules with respect to Orders with a Minimum Quantity Order Attribute will ensure that the rule concerning this Order Attribute is consistent with the Exchange's intent upon its adoption.<sup>17</sup>

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change makes the Exchange's rules more specific by explicitly stating that an Order with a Minimum Quantity Order Attribute is ineligible to participate in the Nasdaq Opening, Halt or Closing Crosses and is not included in the calculation of the Cross price, which will enhance market participants' understanding of the operation of Orders with a Minimum Quantity Order Attribute in the Nasdaq Crosses. Moreover, the proposed change is consistent with the intent of the Order Attribute. As described above, the Minimum Quantity Order Attribute is designed to help market participants reduce costs of executing large-sized Orders, which otherwise may execute

---

<sup>17</sup> See note 12, supra.

in many small transactions, each potentially increasing the price of the transaction. The Nasdaq Crosses provide a controlled price discovery process, in which the control and flexibility of the Minimum Quantity Order Attribute is not needed. The Exchange notes that no market participant has requested participation of the Minimum Quantity Order Attribute in any of the Nasdaq Crosses. Accordingly, the proposed rule change does not implicate competition whatsoever.

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

No written comments were either solicited or received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>18</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>19</sup>

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

---

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>19</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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-2018-077 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-2018-077. 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-2018-077 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>20</sup>

Eduardo A. Aleman  
Assistant Secretary

---

<sup>20</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

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

**The Nasdaq Stock Market Rules**

\* \* \* \* \*

**4703. Order Attributes**

As described in Rule 4702, the following Order Attributes may be assigned to those Order Types for which they are available.

(a) – (d) No change.

(e) **Minimum Quantity.** 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. An Order with a Minimum Quantity Order Attribute may be referred to as a “Minimum Quantity Order.” For example, a Participant could enter an Order with a Size of 1000 shares and specify a Minimum Quantity of 500 shares.

A Participant may specify two alternatives with respect to the processing of a Minimum Quantity Order at time of entry:

- First, the Participant may specify that the minimum quantity condition may be satisfied by execution against multiple Orders. In that case, upon entry, the System would determine whether there were one or more posted Orders executable against the incoming Order with an aggregate size of at least the minimum quantity (500 shares in the above example). If there were not, the Order would post on the Nasdaq Book in accordance with the characteristics of its underlying Order Type.
- Second, the Participant may specify that the minimum quantity condition must be satisfied by execution against one or more Orders, each of which must have a size that satisfies the minimum quantity condition. If there are such Orders but there are also other Orders that do not satisfy the minimum quantity condition, the Minimum Quantity Order will execute against Orders on the Nasdaq Book in accordance with Rule 4757 (pertaining to execution priority) until it reaches an Order that does not satisfy the minimum quantity condition, and then the remainder of the Order will be cancelled. For example, if a Participant entered an Order to buy at \$11 with a size of 1,500 shares and a minimum quantity condition of 500 shares, and there were three Orders to sell at \$11 on the Nasdaq Book, two with a size of 500 shares each and one with a size of 200 shares, with the 200 share Order ranked in time priority between the 500 share Orders, the 500 share Order with the first time priority would execute and the remainder of the Minimum Quantity Order would be cancelled. Alternatively, if the Order would lock or cross Orders on the Nasdaq Book but none of the resting Orders would satisfy the minimum quantity condition, an Order with a minimum

quantity condition to buy (sell) will be repriced to one minimum price increment lower than (higher than) the lowest price (highest price) of such Orders. For example, if there was an Order to buy at \$11 with a minimum quantity condition of 500 shares, and there were resting Orders on the Nasdaq Book to sell 200 shares at \$10.99 and 300 shares at \$11, the Order would be repriced to \$10.98 and ranked at that price.

Once posted to the Nasdaq Book, a Minimum Quantity Order retains its Minimum Quantity Order Attribute, such that the Order may execute only against incoming Orders with a size of at least the minimum quantity condition. An Order that has a Minimum Quantity Order Attribute and that posts to the Nasdaq Book will not be displayed.

Upon entry, an Order with a Minimum Quantity Order Attribute must have a size of at least one round lot. An Order entered through OUCH or FLITE may have a minimum quantity condition of any size of at least one round lot. An Order entered through RASH, QIX or FIX must have a minimum quantity of one round lot or any multiple thereof, and a mixed lot minimum quantity condition will be rounded down to the nearest round lot. In the event that the shares remaining in the size of an Order with a Minimum Quantity Order Attribute following a partial execution thereof are less than the minimum quantity specified by the Participant entering the Order, the minimum quantity value of the Order will be reduced to the number of shares remaining. An Order with a Minimum Quantity Order Attribute may not be displayed; if a Participant marks an Order with both a Minimum Quantity Order Attribute and a Display Order Attribute, the System will accept the Order but will give a Time-in-Force of IOC, regardless of the Time-in-Force marked by the Participant. An Order marked with a Minimum Quantity Order Attribute and a Routing Order Attribute will be rejected. An Order with a Minimum Quantity Order Attribute is ineligible to participate in the Nasdaq Opening, Halt or Closing Crosses, and is not included in the calculation of the Cross price.

(f) – (m) No change.

\* \* \* \* \*