

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 27	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2019 - * 061	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 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="Proposed rule change regarding how the Nasdaq Official Closing Price will be determined for a Nasdaq-listed security that is an exchange-traded product"/>				
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="Jonathan"/>	Last Name *	<input type="text" value="Cayne"/>	
Title *	<input type="text" value="Principal Associate General Counsel"/>			
E-mail *	<input type="text" value="Jonathan.Cayne@nasdaq.com"/>			
Telephone *	<input type="text" value="(301) 978-8493"/>	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="08/08/2019"/>	<input type="text" value="Global Chief Legal and Policy Officer"/>		
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 *

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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 *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

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

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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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

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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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

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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 proposed rule change regarding how the Nasdaq Official Closing Price (“NOCP”) will be determined for a Nasdaq-listed security that is an exchange-traded product (as defined herein).

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 the Board of Directors of the Exchange on July 16, 2019. No other action is necessary for the filing of the rule change.

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

Jonathan Cayne
Principal Associate General Counsel
Nasdaq, Inc.
301 978 8493

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

a. Purpose

Nasdaq Rule 4754(b) details the processing of the Nasdaq Closing Cross, including how the Exchange determines the NOCP. The Exchange proposes to amend

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Nasdaq Rule 4754 to amend how the NOCP³ will be determined for an Exchange-listed security that is an exchange-traded product (“ETP”) if the Exchange does not conduct a closing cross (“Closing Cross”).⁴ ETP for purposes of the proposed rule change means a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, or Trust Issued Receipts (as defined in Nasdaq Rules 5705(a) 5705(b), 5735, and 5720, respectively), securities linked to the performance of indexes and commodities (including currencies) (as defined in Nasdaq Rule 5710), Index-Linked Exchangeable Notes, Equity Gold Shares, Trust Certificates, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Securities, or Currency Warrants (as defined in Rule 5711(a) - (k)).

The proposed functionality in this filing is similar to functionality that has already been approved by the Commission and is operational on NYSE Arca, Inc.

³ As set forth in Nasdaq Rule 4754(b)(4), the NOCP will be the Closing Cross price for stocks that participate in the Closing Cross.

⁴ The proposed rule change does not apply to Nasdaq Rule 5745 Exchange-Traded Managed Fund Shares (“NextShares”) or corporate securities. Additionally, it is unnecessary to apply this rule change to NextShares because its’ reference trading price is reset to 100 every day for quoting purposes around which markets are made. The actual NAV price does not correspond to this reference price and therefore the midpoints of the reference price are not applicable in determining a more accurate fair value of the basket. Nasdaq is not proposing this change for corporate securities because unlike ETPs they do not have a known NAV along with an arbitrage component that allows for convergence in price and keeps the prices in line. Corporate securities are priced based upon supply demand factors at moments in time, which result in executed transactions. These transactions are generally recognized as the most relevant current pricing valuation. Feedback from industry participants has not shown any desire to alter closing price valuation processes for commons stocks.

(“Arca”) (the “Arca Rule”),⁵ as well as was approved for Bats BZX Exchange, Inc.⁶

Currently, the NOCP is derived from the Closing Cross⁷ on Nasdaq if the security has a closing cross and reflects actual sale prices at one of the most liquid times of the day.⁸ The Exchange notes that it is not proposing to make changes to the process for determining the price level at which the Closing Cross will occur. Nasdaq believes its Closing Cross has proven to be a valuable pricing tool for issuers, traders, and investors alike; and Nasdaq continually works to enhance the experience for those that rely upon it.

The Exchange proposes to amend Nasdaq Rule 4754(b)(4) to amend how the NOCP for a Nasdaq-listed security that is an ETP will be determined if the security does not have a closing cross. Thinly-traded ETPs are less likely to have a Closing Cross, which can result in a closing price that is based on a stale price that is no longer reflective

⁵ See Securities Exchange Act Release No. 82907 (March 20, 2018), 83 FR 12980 (March 26, 2018) (SR-NYSEArca-2018-08) (order approving proposed changes to Arca Rule 1.1(l) related to determining an Official Closing Price).

⁶ See Securities Exchange Act Release No. 84738 (Dec. 6, 2018), 83 FR 63932 (Dec. 12, 2018) (SR-CboeBZX-2018-079) (order approving proposed changes to BZX Rule 11.23(c)(2)(B) related to how it would determine the BZX Official Closing Price).

⁷ All orders executed in the Closing Cross will be executed at the Closing Cross price, trade reported anonymously, and disseminated via the consolidated tape. The Closing Cross price will be the NOCP for stocks that participate in the Closing Cross. Fifteen minutes after the close of trading, Nasdaq will disseminate via the network processor a trade message setting the NOCP as the official Consolidated Last Sale price in each Nasdaq-listed ETP in which one round lot or more is executed in the Closing Cross where the closing price differs from the Consolidated Last Sale price.

⁸ The Closing Cross is designed to gather the maximum liquidity available for execution at the close of trading, and to maximize the number of shares executed at a single price at the close of the trading day. The Closing Cross is made highly transparent to all investors through the widespread dissemination of stock-by-stock information about the Closing Cross, including the potential price and size of the Closing Cross.

of the value of the security. Specifically, if an ETP is thinly-traded it is currently possible that the NOCP for it will be based on a Nasdaq Last Sale price that may not necessarily reflect the current value of the security. Providing an updated price aligned with the current market value based on quotations in an ETP that is thinly-traded will provide investors and issuers with a more accurate price to mark performance of their funds and portfolios.

Nasdaq Rule 4754(b) outlines the process for determining the price level at which the Closing Cross will occur.⁹ If a Nasdaq-listed security that is an ETP has a Closing Cross, it will continue to be priced using the current process for calculating the closing price. However, if a Nasdaq-listed security that is an ETP does not have a Closing Cross, then the Exchange believes that a time-weighted average based on the midpoint (“T-WAM”) of the NBBO¹⁰ leading into the close is likely to be more indicative of the current value of the security. Nasdaq believes the midpoint of current quotations is more reflective of the current value of the ETP than a potentially stale last sale.

The T-WAM price will be a time-weighted average midpoint value calculation¹¹ that uses eligible quotes during the time period 3:58:00 p.m. – 3:59:55 p.m. based on quotes observed each second.¹² For example, NBBO = 19.99 x 20.01 (midpoint= \$20.00)

⁹ The Exchange notes that it is not proposing to make changes to the process for determining the price level at which the Closing Cross will occur.

¹⁰ As defined in Nasdaq Rule 4701(j), the term “NBBO” shall mean the “National Best Bid and National Best Offer”.

¹¹ The T-WAM calculation will take the midpoint of the NBBO on a 1-second basis and weight according to time-frequency during the time period 3:58:00 p.m.– 3:59:55 p.m.

¹² Nasdaq’s current process accepts limit on close (“LOC”) orders for participation in the Closing Cross until 3:58:00 p.m., this is the last opportunity for market

starting at 3:58:00 p.m. through 3:58:59 p.m. and then the NBBO is updated to 19.95 x 19.97 (midpoint= \$19.96) from 3:59:00 p.m. through 3:59:55 p.m., the T-WAM calculation will be \$19.98 (19.9807).

In cases where the T-WAM is reflected as the ETP's NOCP, the T-WAM calculation will only use eligible quotes that meet the following validation logic: An eligible quote is defined as a quote whose spread is no greater than a value of 10% of the midpoint price. All quoted spreads within the T-WAM's stated time period in proposed Nasdaq Rule 4754(b)(4)(A)(i) that are greater than 10% of the midpoint would be excluded from the T-WAM calculation. For example: If the NBBO = 19.99 x 20.01 (midpoint = \$20) validation logic would allow a maximum quote width up to \$2 to be used as part of the calculation ($\$20.00 * 10\% = \2). If the NBBO was 17.00 x 23.00 (midpoint = \$20.00) the midpoint would not be used in the T-WAM calculation because it violates the maximum quote width ($\$20.00 * 10\% = \2). The T-WAM also will exclude crossed NBBO markets. The Exchange believes that the proposed methodology will result in a NOCP that is more reflective of the current market value of the ETP on that trading day.

If there are no eligible quotes to determine a T-WAM within the time period or if

participants to enter an on-close order type that can contribute to price discovery. In instances when there is no Closing Cross at 4:00:00 p.m., internal research by the Exchange has shown that using the T-WAM of the time period between 3:58:00 p.m. – 3:59:55 p.m. results in a price that reflects a fair current valuation. Nasdaq's decision to use this time period included an evaluation of the T-WAM calculation price compared against the historical data of the prior day's actual ETP Closing Cross prices. Nasdaq's internal research data demonstrated that the calculated T-WAM price was reflective of the price that was similarly calculated by the Closing Cross. Nasdaq's analysis provided confidence that for thinly-traded ETPs the 3:58:00 p.m. – 3:59:55 p.m. time period for the T-WAM, will result in an improved valuation methodology versus using the Nasdaq Last Sale.

the ETP is halted, then Nasdaq will use the Consolidated Last Sale price prior to 4:00:00 p.m. as the NOCP. For an ETP that is already listed on Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will be the prior day's NOCP. For an ETP that has transferred its listing to Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will be the prior day's closing price as disseminated by the primary listing market that previously listed it. For an ETP that is a new listing to Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will not be disseminated.

In order to implement these proposed changes, the Exchange is proposing to amend Nasdaq Rule 4754(b)(4) by adding subsection (A) to this rule. Nasdaq Rule 4754(b)(4), as amended, will define the term "Exchange-Traded Product" and provide that in the event that a Nasdaq listed ETP does not have a closing cross then the T-WAM of the NBBO will be used.

Implementation

The Exchange will implement the proposed rule change for determining the NOCP as soon as is practicable after the approval date of this proposed rule change, which may be as early as during the third quarter of 2019, and will announce the implementation date via Nasdaq Equity Trader Alert.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the

Act,¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁴ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide for a method of determining the NOCP in an Exchange-listed security that is an ETP if there is no Closing Cross, as well add a definition of “Exchange-Traded Product” to the rule that will aid market participants in understanding the rule.¹⁵ The Exchange believes that the proposed methodology provides for a more up-to date indication of the value of such ETP if there have not been Nasdaq last sale trades leading in to the close of trading. Specifically, this is consistent with the Act because when there is no Closing Cross at 4:00:00 p.m., the Exchange’s internal research has shown that using the T-WAM of the time period between 3:58:00 p.m. – 3:59:55 p.m.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ The definition of “Exchange-Traded Product” excludes NextShares and does not apply to common stock. Specifically, ETP for purposes of the proposed rule change means a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, or Trust Issued Receipts (as defined in Nasdaq Rules 5705(a) 5705(b), 5735, and 5720, respectively), securities linked to the performance of indexes and commodities (including currencies) (as defined in Nasdaq Rule 5710), Index-Linked Exchangeable Notes, Equity Gold Shares, Trust Certificates, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Securities, or Currency Warrants (as defined in Rule 5711(a) - (k)).

results in a price that reflects a fair current valuation and is reflective of the price that was similarly calculated by the Closing Cross.¹⁶ This results in an improved valuation methodology versus using the Nasdaq Last Sale to the benefit of market participants since it will provide a closing price that more accurately reflects the most recent and reliable market information possible.

The Exchange further believes that since the proposed T-WAM methodology, described herein, will result in a NOCP that is more reflective of the current market value of the ETP on that trading day and it will serve to remove impediments to and perfect the mechanism of a free and open market and a national market system because it will provide for a more robust mechanism to determine the value of an affected ETP for purposes of determining a NOCP.

The Exchange also believes that the proposed methodology for determining a NOCP would be appropriate for ETPs because if they are thinly-traded, the price of the Nasdaq Last Sale trade that occurred earlier in a trading day or even from a prior trading day may no longer be reflective of the value of such product, which should be priced relative to the value of the components of such ETP. As such, the Exchange believes recent quoting activity likely will be more reflective of the current value of the ETP. Furthermore, the Exchange is proposing to use the T-WAM of the NBBO to measure such quoting activity in order to avoid overly weighting a potentially stale quote that may occur leading into the close.

Currently, the NOCP is derived from the Closing Cross on Nasdaq if the security has a closing cross and reflects actual sale prices. If a Nasdaq-listed security that is an

¹⁶ See supra footnote 12.

ETP has a Closing Cross, it will continue to be priced using the current process for calculating the closing price. Under the proposed rule change, if a Nasdaq-listed security that is an ETP does not have a Closing Cross, then the T-WAM of the NBBO will be used as the NOCP. If there are no eligible quotes to determine a T-WAM within the time period or if the ETP is halted, then Nasdaq will use the Consolidated Last Sale price prior to 4:00:00 p.m. as the NOCP. For an ETP that is already listed on Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will be the prior day's NOCP. For an ETP that has transferred its listing to Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will be the prior day's closing price as disseminated by the primary listing market that previously listed it. For an ETP that is a new listing to Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will not be disseminated.

The proposed functionality in this filing is similar to functionality that has already been approved by the Commission and is operational on other exchanges. The Exchange believes that the proposed pricing methodology will promote just and equitable principles of trade, remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest by enhancing how the NOCP will be determined for a Nasdaq-listed security that is an ETP and will be to the benefit of issuers, traders, and investors alike.

For the above reasons, the Exchange believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act.

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, as amended. The proposed rule change is consistent with the rules of the other exchanges and is designed to provide for how the Exchange would determine the NOCP for an Exchange-listed security that is an ETP if there is no Closing Cross, which will help it better compete as a listing venue.

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 Exchange believes that the foregoing proposed rule change should receive accelerated effectiveness pursuant to Section 19(b)(2) of the Act.¹⁷ The Exchange requests that the Commission approve the proposed rule change on an accelerated basis so that it may become operative as soon as practicable.

The Exchange believes that its rule change proposal is appropriate for approving on an accelerated basis because it will not significantly affect the protection of investors or the public interest and the proposal contains no new issues that the Commission has not previously contemplated.

For the foregoing reasons, this rule filing qualifies for accelerated approval under

¹⁷ 15 U.S.C. 78s(b)(2).

Rule 19(b)(2).

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

As discussed above, this proposed rule change is based on Arca Rule 1.1(II).¹⁸

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.

¹⁸

See supra note 5.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2019-061)

August __, 2019

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change Relating to the Nasdaq Official Closing Price for Nasdaq-Listed Exchange-Traded Products

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 August 8, 2019, 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 a rule change regarding how the Nasdaq Official Closing Price (“NOCP”) will be determined for a Nasdaq-listed security that is an exchange-traded product (as defined herein).

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

In its filing with the Commission, 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

Nasdaq Rule 4754(b) details the processing of the Nasdaq Closing Cross, including how the Exchange determines the NOCP. The Exchange proposes to amend Nasdaq Rule 4754 to amend how the NOCP³ will be determined for an Exchange-listed security that is an exchange-traded product ("ETP") if the Exchange does not conduct a closing cross ("Closing Cross").⁴ ETP for purposes of the proposed rule change means a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, or

³ As set forth in Nasdaq Rule 4754(b)(4), the NOCP will be the Closing Cross price for stocks that participate in the Closing Cross.

⁴ The proposed rule change does not apply to Nasdaq Rule 5745 Exchange-Traded Managed Fund Shares ("NextShares") or corporate securities. Additionally, it is unnecessary to apply this rule change to NextShares because its' reference trading price is reset to 100 every day for quoting purposes around which markets are made. The actual NAV price does not correspond to this reference price and therefore the midpoints of the reference price are not applicable in determining a more accurate fair value of the basket. Nasdaq is not proposing this change for corporate securities because unlike ETPs they do not have a known NAV along with an arbitrage component that allows for convergence in price and keeps the prices in line. Corporate securities are priced based upon supply demand factors at moments in time, which result in executed transactions. These transactions are generally recognized as the most relevant current pricing valuation. Feedback from industry participants has not shown any desire to alter closing price valuation processes for common stocks.

Trust Issued Receipts (as defined in Nasdaq Rules 5705(a) 5705(b), 5735, and 5720, respectively), securities linked to the performance of indexes and commodities (including currencies) (as defined in Nasdaq Rule 5710), Index-Linked Exchangeable Notes, Equity Gold Shares, Trust Certificates, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Securities, or Currency Warrants (as defined in Rule 5711(a) - (k)).

The proposed functionality in this filing is similar to functionality that has already been approved by the Commission and is operational on NYSE Arca, Inc. (“Arca”) (the “Arca Rule”),⁵ as well as was approved for Bats BZX Exchange, Inc.⁶

Currently, the NOCP is derived from the Closing Cross⁷ on Nasdaq if the security has a closing cross and reflects actual sale prices at one of the most liquid times of the day.⁸ The Exchange notes that it is not proposing to make changes to the process for

⁵ See Securities Exchange Act Release No. 82907 (March 20, 2018), 83 FR 12980 (March 26, 2018) (SR-NYSEArca-2018-08) (order approving proposed changes to Arca Rule 1.1(l) related to determining an Official Closing Price).

⁶ See Securities Exchange Act Release No. 84738 (Dec. 6, 2018), 83 FR 63932 (Dec. 12, 2018) (SR-CboeBZX-2018-079) (order approving proposed changes to BZX Rule 11.23(c)(2)(B) related to how it would determine the BZX Official Closing Price).

⁷ All orders executed in the Closing Cross will be executed at the Closing Cross price, trade reported anonymously, and disseminated via the consolidated tape. The Closing Cross price will be the NOCP for stocks that participate in the Closing Cross. Fifteen minutes after the close of trading, Nasdaq will disseminate via the network processor a trade message setting the NOCP as the official Consolidated Last Sale price in each Nasdaq-listed ETP in which one round lot or more is executed in the Closing Cross where the closing price differs from the Consolidated Last Sale price.

⁸ The Closing Cross is designed to gather the maximum liquidity available for execution at the close of trading, and to maximize the number of shares executed

determining the price level at which the Closing Cross will occur. Nasdaq believes its Closing Cross has proven to be a valuable pricing tool for issuers, traders, and investors alike; and Nasdaq continually works to enhance the experience for those that rely upon it.

The Exchange proposes to amend Nasdaq Rule 4754(b)(4) to amend how the NOCP for a Nasdaq-listed security that is an ETP will be determined if the security does not have a closing cross. Thinly-traded ETPs are less likely to have a Closing Cross, which can result in a closing price that is based on a stale price that is no longer reflective of the value of the security. Specifically, if an ETP is thinly-traded it is currently possible that the NOCP for it will be based on a Nasdaq Last Sale price that may not necessarily reflect the current value of the security. Providing an updated price aligned with the current market value based on quotations in an ETP that is thinly-traded will provide investors and issuers with a more accurate price to mark performance of their funds and portfolios.

Nasdaq Rule 4754(b) outlines the process for determining the price level at which the Closing Cross will occur.⁹ If a Nasdaq-listed security that is an ETP has a Closing Cross, it will continue to be priced using the current process for calculating the closing price. However, if a Nasdaq-listed security that is an ETP does not have a Closing Cross, then the Exchange believes that a time-weighted average based on the midpoint (“T-

at a single price at the close of the trading day. The Closing Cross is made highly transparent to all investors through the widespread dissemination of stock-by-stock information about the Closing Cross, including the potential price and size of the Closing Cross.

⁹ The Exchange notes that it is not proposing to make changes to the process for determining the price level at which the Closing Cross will occur.

WAM”) of the NBBO¹⁰ leading into the close is likely to be more indicative of the current value of the security. Nasdaq believes the midpoint of current quotations is more reflective of the current value of the ETP than a potentially stale last sale.

The T-WAM price will be a time-weighted average midpoint value calculation¹¹ that uses eligible quotes during the time period 3:58:00 p.m. – 3:59:55 p.m. based on quotes observed each second.¹² For example, NBBO = 19.99 x 20.01 (midpoint= \$20.00) starting at 3:58:00 p.m. through 3:58:59 p.m. and then the NBBO is updated to 19.95 x 19.97 (midpoint= \$19.96) from 3:59:00 p.m. through 3:59:55 p.m., the T-WAM calculation will be \$19.98 (19.9807).

In cases where the T-WAM is reflected as the ETP’s NOCP, the T-WAM calculation will only use eligible quotes that meet the following validation logic: An eligible quote is defined as a quote whose spread is no greater than a value of 10% of the midpoint price. All quoted spreads within the T-WAM’s stated time period in proposed

¹⁰ As defined in Nasdaq Rule 4701(j), the term “NBBO” shall mean the “National Best Bid and National Best Offer”.

¹¹ The T-WAM calculation will take the midpoint of the NBBO on a 1-second basis and weight according to time-frequency during the time period 3:58:00 p.m.– 3:59:55 p.m.

¹² Nasdaq’s current process accepts limit on close (“LOC”) orders for participation in the Closing Cross until 3:58:00 p.m., this is the last opportunity for market participants to enter an on-close order type that can contribute to price discovery. In instances when there is no Closing Cross at 4:00:00 p.m., internal research by the Exchange has shown that using the T-WAM of the time period between 3:58:00 p.m. – 3:59:55 p.m. results in a price that reflects a fair current valuation. Nasdaq’s decision to use this time period included an evaluation of the T-WAM calculation price compared against the historical data of the prior day’s actual ETP Closing Cross prices. Nasdaq’s internal research data demonstrated that the calculated T-WAM price was reflective of the price that was similarly calculated by the Closing Cross. Nasdaq’s analysis provided confidence that for thinly-traded ETPs the 3:58:00 p.m. – 3:59:55 p.m. time period for the T-WAM, will result in an improved valuation methodology versus using the Nasdaq Last Sale.

Nasdaq Rule 4754(b)(4)(A)(i) that are greater than 10% of the midpoint would be excluded from the T-WAM calculation. For example: If the NBBO = 19.99 x 20.01 (midpoint = \$20) validation logic would allow a maximum quote width up to \$2 to be used as part of the calculation ($\$20.00 * 10\% = \2). If the NBBO was 17.00 x 23.00 (midpoint = \$20.00) the midpoint would not be used in the T-WAM calculation because it violates the maximum quote width ($\$20.00 * 10\% = \2). The T-WAM also will exclude crossed NBBO markets. The Exchange believes that the proposed methodology will result in a NOCP that is more reflective of the current market value of the ETP on that trading day.

If there are no eligible quotes to determine a T-WAM within the time period or if the ETP is halted, then Nasdaq will use the Consolidated Last Sale price prior to 4:00:00 p.m. as the NOCP. For an ETP that is already listed on Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will be the prior day's NOCP. For an ETP that has transferred its listing to Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will be the prior day's closing price as disseminated by the primary listing market that previously listed it. For an ETP that is a new listing to Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will not be disseminated.

In order to implement these proposed changes, the Exchange is proposing to amend Nasdaq Rule 4754(b)(4) by adding subsection (A) to this rule. Nasdaq Rule 4754(b)(4), as amended, will define the term "Exchange-Traded Product" and provide

that in the event that a Nasdaq listed ETP does not have a closing cross then the T-WAM of the NBBO will be used.

Implementation

The Exchange will implement the proposed rule change for determining the NOCP as soon as is practicable after the approval date of this proposed rule change, which may be as early as during the third quarter of 2019, and will announce the implementation date via Nasdaq Equity Trader Alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁴ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide for a method of determining the NOCP in an Exchange-listed security that is an ETP if there is no Closing Cross, as well add a definition of “Exchange-Traded Product” to the rule that will aid market participants in understanding the rule.¹⁵ The Exchange believes that the proposed methodology provides for a more

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ The definition of “Exchange-Traded Product” excludes NextShares and does not apply to common stock. Specifically, ETP for purposes of the proposed rule

up-to date indication of the value of such ETP if there have not been Nasdaq last sale trades leading in to the close of trading. Specifically, this is consistent with the Act because when there is no Closing Cross at 4:00:00 p.m., the Exchange's internal research has shown that using the T-WAM of the time period between 3:58:00 p.m. – 3:59:55 p.m. results in a price that reflects a fair current valuation and is reflective of the price that was similarly calculated by the Closing Cross.¹⁶ This results in an improved valuation methodology versus using the Nasdaq Last Sale to the benefit of market participants since it will provide a closing price that more accurately reflects the most recent and reliable market information possible.

The Exchange further believes that since the proposed T-WAM methodology, described herein, will result in a NOCP that is more reflective of the current market value of the ETP on that trading day and it will serve to remove impediments to and perfect the mechanism of a free and open market and a national market system because it will provide for a more robust mechanism to determine the value of an affected ETP for purposes of determining a NOCP.

The Exchange also believes that the proposed methodology for determining a NOCP would be appropriate for ETPs because if they are thinly-traded, the price of the Nasdaq Last Sale trade that occurred earlier in a trading day or even from a prior trading

change means a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, or Trust Issued Receipts (as defined in Nasdaq Rules 5705(a) 5705(b), 5735, and 5720, respectively), securities linked to the performance of indexes and commodities (including currencies) (as defined in Nasdaq Rule 5710), Index-Linked Exchangeable Notes, Equity Gold Shares, Trust Certificates, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Securities, or Currency Warrants (as defined in Rule 5711(a) - (k)).

¹⁶ See supra footnote 12.

day may no longer be reflective of the value of such product, which should be priced relative to the value of the components of such ETP. As such, the Exchange believes recent quoting activity likely will be more reflective of the current value of the ETP. Furthermore, the Exchange is proposing to use the T-WAM of the NBBO to measure such quoting activity in order to avoid overly weighting a potentially stale quote that may occur leading into the close.

Currently, the NOCP is derived from the Closing Cross on Nasdaq if the security has a closing cross and reflects actual sale prices. If a Nasdaq-listed security that is an ETP has a Closing Cross, it will continue to be priced using the current process for calculating the closing price. Under the proposed rule change, if a Nasdaq-listed security that is an ETP does not have a Closing Cross, then the T-WAM of the NBBO will be used as the NOCP. If there are no eligible quotes to determine a T-WAM within the time period or if the ETP is halted, then Nasdaq will use the Consolidated Last Sale price prior to 4:00:00 p.m. as the NOCP. For an ETP that is already listed on Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will be the prior day's NOCP. For an ETP that has transferred its listing to Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will be the prior day's closing price as disseminated by the primary listing market that previously listed it. For an ETP that is a new listing to Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the NOCP will not be disseminated.

The proposed functionality in this filing is similar to functionality that has already

been approved by the Commission and is operational on other exchanges. The Exchange believes that the proposed pricing methodology will promote just and equitable principles of trade, remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest by enhancing how the NOCP will be determined for a Nasdaq-listed security that is an ETP and will be to the benefit of issuers, traders, and investors alike.

For the above reasons, the Exchange believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act.

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, as amended. The proposed rule change is consistent with the rules of the other exchanges and is designed to provide for how the Exchange would determine the NOCP for an Exchange-listed security that is an ETP if there is no Closing Cross, which will help it better compete as a listing venue.

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-2019-061 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-2019-061. 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-2019-061 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.¹⁷

Eduardo A. Aleman
Assistant Secretary

¹⁷ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

The Nasdaq Stock Market Rules

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4754. Nasdaq Closing Cross

(a) No change.

(b) Processing of Nasdaq Closing Cross. The Nasdaq Closing Cross will begin at 4:00:00 p.m. EST, and post-market hours trading will commence when the Nasdaq Closing Cross concludes.

(1) – (3) No change.

(4) All orders executed in the Nasdaq Closing Cross will be executed at the Nasdaq Closing Cross price, trade reported anonymously, and disseminated via the consolidated tape. The Nasdaq Closing Cross price will be the Nasdaq Official Closing Price for stocks that participate in the Nasdaq Closing Cross. Fifteen minutes after the close of trading, Nasdaq will disseminate via the network processor a trade message setting the Nasdaq Official Closing Price as the official Consolidated Last Sale Price in each Nasdaq-listed security in which one round lot or more is executed in the Nasdaq Closing Cross where the closing price differs from the Consolidated Last Sale Price.

(A) If a Nasdaq-listed security that is an exchange-traded product (“ETP” and as defined below in (vii) for purposes of this rule) does not have a closing cross then the time-weighted average midpoint (“T-WAM”) of the NBBO will be used as the Nasdaq Official Closing Price with the following parameters:

(i) The T-WAM price will be a time-weighted average midpoint value calculation that uses eligible quotes during the time period 3:58:00 p.m. – 3:59:55 p.m. based on quotes observed each second.

(ii) In cases where the T-WAM is reflected as the Nasdaq Official Closing Price, the T-WAM calculation will only use eligible quotes that meet the following validation logic: An eligible quote is defined as a quote whose spread is no greater than a value of 10% of the midpoint price. All quoted spreads within the T-WAM’s stated time period in Rule 4754(b)(4)(A)(i) above that are greater than 10% of the midpoint would be excluded from the T-WAM calculation. The T-WAM will also exclude crossed NBBO markets.

(iii) If there are no eligible quotes within the price validation logic or if the ETP is halted, then Nasdaq will use the Consolidated Last Sale price prior to 4:00:00 p.m. as the Nasdaq Official Closing Price.

(vi) For an ETP that is already listed on Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the Nasdaq Official Closing Price will be the prior day's Nasdaq Official Closing Price.

(v) For an ETP that has transferred its listing to Nasdaq and does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the Nasdaq Official Closing Price will be the prior day's closing price as disseminated by the primary listing market that previously listed the ETP.

(vi) For an ETP that is a new Nasdaq listing and it does not have any eligible quotes for the T-WAM methodology or any Consolidated Last Sale prices that day, the Nasdaq Official Closing Price will not be disseminated.

(vii) Exchange-Traded Product for purposes of this rule means a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, or Trust Issued Receipts (as defined in Nasdaq Rules 5705(a), 5705(b), 5735, and 5720, respectively); securities linked to the performance of indexes and commodities (including currencies) (as defined in Nasdaq Rule 5710); Index-Linked Exchangeable Notes, Equity Gold Shares, Trust Certificates, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Securities, or Currency Warrants (as defined in Rule 5711(a) - (k)).

(5) – (8) No change.

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