

6(b)(5) of the Act,<sup>20</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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, and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposal will protect investors and the public interest by helping market participants to hedge positions in SPIKES options and execute delta neutral trading strategies involving SPIKES options. All of the provisions in MIAX Rule 518 that are applicable to complex orders will apply to SPIKES Combo Orders, other than the requirement that the component legs of a complex order have a ratio that is equal to or greater than one-to-three and less than or equal to three-to-one.<sup>21</sup> The Commission notes that permitting SPIKES Combo Orders to have a ratio of no more than eight options to one SPIKES Combination is consistent with the 8:1 ratio permitted for stock-option orders.<sup>22</sup> As noted above, a SPIKES Combination Order creates a synthetic underlying position that is the functional equivalent of the stock leg in stock-option orders,<sup>23</sup> and the SPIKES Combination hedges one or more SPIKES option series.<sup>24</sup> Finally, as discussed above, MIAX has represented that it has the system capacity to accommodate the trading of SPIKES Combo Orders as well as surveillance procedures to monitor compliance with its rules relating to delta neutral transactions.<sup>25</sup>

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>26</sup> that the proposed rule change (SR-MIAX-2019-37) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87179; File No. SR-NASDAQ-2019-075]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Further Delay Implementation of the Early Order Imbalance Indicator Functionality

October 1, 2019.

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 17, 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 and II 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 delay implementation of the Early Order Imbalance Indicator functionality until Q4 2019.

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

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

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

forth in sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

On February 27, 2019, the Exchange filed a proposed rule change to establish the Early Order Imbalance Indicator (“EOII”), which contains a subset of the information comprising the Net Order Imbalance Indicator (“NOII”) that the Exchange will disseminate ten minutes prior to the market close and five minutes prior to the cutoff time for entering Market on Close and certain Limit on Close Orders into the Nasdaq Closing Cross.<sup>3</sup> The proposed rule change indicated that the Exchange would implement EOII in Q2 2019.<sup>4</sup> The Exchange subsequently delayed the implementation of EOII functionality until Q3 2019.<sup>5</sup> The Exchange now proposes to further delay the implementation of EOII functionality until Q4 2019. The Exchange will issue an Equity Trader Alert notifying participants prior to implementing the functionality. The Exchange proposes this delay to allow the EOII to become effective at the same time as a pending change to enhance the closing process for the Exchange.<sup>6</sup> The delay will also afford additional time that Exchange participants have requested to prepare for the onset of EOII.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</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 allowing the Exchange additional time to implement the EOII in conjunction with a related enhancement to the Closing Cross process. The delay would also afford participants the additional

<sup>3</sup> See Securities Exchange Act Release No. 34-85292 (Mar. 12, 2019), 84 FR 9848 (Mar. 18, 2019) (SR-NASDAQ-2019-010).

<sup>4</sup> See *id.* at 9850.

<sup>5</sup> See Securities Exchange Act Release No. 34-85745 (Apr. 29, 2019), 84 FR 19135 (May 3, 2019) (SR-NASDAQ-2019-032).

<sup>6</sup> See Securities Exchange Act Release No. 34-86642 (Aug. 13, 2019) (SR-NASDAQ-2019-064).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>21</sup> See proposed MIAX Rule 518(a)(4)(i).

<sup>22</sup> See note 8, *supra*.

<sup>23</sup> See Notice, 84 FR at 43214.

<sup>24</sup> See Policy MIAX Rule 518, Interpretation and Policy .07(a)(3).

<sup>25</sup> See *id.* at 43215.

<sup>26</sup> 15 U.S.C. 78s(b)(2).

<sup>27</sup> 17 CFR 200.30-3(a)(12).

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

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

time they have requested to prepare for the onset of EOII.

#### *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. The Exchange's proposal to delay the implementation of the EOII functionality does not impose an undue burden on competition. Delaying EOII will simply allow the Exchange additional time to implement the EOII in conjunction with a related enhancement to the Closing Cross process. The delay will also afford participants the additional time they have requested to prepare for the onset of EOII.

#### *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) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>11</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>12</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange can provide notice of the implementation

delay as soon as possible. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>13</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 necessary or appropriate in the public interest, for the protection of investors, or 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 change 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2019-075 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-2019-075. This file number should be included on the subject line if email 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 website (<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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2019-075 and should be submitted on or before October 29, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-87200; File No. SR-CboeEDGX-2019-012]

### **Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce Retail Priority**

October 2, 2019

#### **I. Introduction**

On March 18, 2019, Cboe EDGX Exchange, Inc. ("Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to introduce order book priority for equity orders submitted on behalf of retail investors. The proposed rule change was published for comment in the **Federal Register** on April 5, 2019.<sup>3</sup> The Commission received five comment letters from four commenters on the proposed rule change.<sup>4</sup> On May 16,

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 85482 (April 2, 2019), 84 FR 13729 ("Notice").

<sup>4</sup> See letters to Vanessa Countryman, Acting Secretary, Commission, from Sean Paylor, Trader,

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has requested that the Commission waive the pre-filing requirement. The Commission hereby waives that requirement.

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).