

outstanding orders on the Exchange's book and notional execution value, rather than based simply on a notional execution value.<sup>18</sup> The Commission believes that the proposed rule change would provide an additional option for members seeking to further tailor their risk management capability while transacting on the Exchange. The Commission also believes that the proposed rule change is reasonably designed to provide clearing members additional opportunity to monitor and manage the potential risks that they assume when clearing for members of the Exchange, as well as to provide clearing members with greater control over their risk tolerance and exposure on behalf of their correspondent members, while also providing an alert system designed to help ensure that both members and clearing members are made aware of developing issues.

The Commission notes that the proposed Gross Credit and Net Credit Risk Limits are optional functionalities. The Commission reminds members electing to use the proposed risk limits to be mindful of their obligations to, among other things, seek best execution of orders they handle on an agency basis. A broker-dealer has a legal duty to seek to obtain best execution of customer orders, and the decision to utilize the proposed risk settings, including the parameters set forth by the member for the risk setting, must be consistent with this duty.<sup>19</sup> For instance, under the proposal, members, or their respective clearing members on their behalf, have discretion to set the Gross Credit Risk Limit or Net Credit Risk Limit. While the Exchange did not affirmatively establish minimum and maximum permissible settings for these limits in its proposed rule change, the Commission expects the Exchange to periodically assess whether the risk limits are operating in a manner that is consistent with the promotion of fair and orderly markets. In addition, the Commission expects that members will consider their best execution obligations when establishing the parameters for the risk limits.<sup>20</sup> For example, to the extent that a member's risk settings are set to overly-sensitive parameters, particularly

if a member's order flow to the Exchange contains agency orders, a member should consider the effect of its chosen settings on its ability to receive a timely execution on marketable agency orders that it sends to the Exchange in various market conditions.<sup>21</sup> The Commission cautions that brokers considering their best execution obligations should be aware that agency orders they represent may be blocked or canceled on account of the Gross Credit and Net Credit Risk Limits.

Based on the foregoing, the Commission finds that the proposed rule change is consistent with the Act.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>22</sup> that the proposed rule change (SR-ChoeBZX-2020-006) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88587; File No. SR-NASDAQ-2020-015]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4759

April 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 3, 2020, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("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 amend Rule 4759 (Data Feeds Utilized) to include the Long-Term Stock Exchange, Inc. ("LTSE") in the list of proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders as well as regulatory compliance processes related to those functions.

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 May 10, 2019, the Commission approved the Long-Term Stock Exchange, Inc. ("LTSE") as a national securities exchange.<sup>3</sup> In anticipation of the planned launch of LTSE,<sup>4</sup> the Exchange proposes to amend and update Rule 4759, which lists the proprietary and network processor feeds that the Exchange utilizes for the handling, routing and execution of orders as well as regulatory compliance processes related to those functions. Specifically, the Exchange proposes to specify that LTSE will be an additional market center source for quotation data

<sup>3</sup> See Securities Exchange Act Release No. 85828 (May 10, 2019), 84 FR 21841 (May 15, 2019) (File No. 10-234) (Order approving LTSE application for registration as a national securities exchange).

<sup>4</sup> LTSE expects to launch on May 15, 2020. See LTSE Update on adjusted phase-in schedule published on March 18, 2020, available at: <https://longtermstockexchange.com/static/MA-2020-006-14f9b362b7bd1103c9545525d246e778.pdf>.

<sup>18</sup> See *id.* See also Notice, *supra* note 3, at 11422.

<sup>19</sup> See Securities Exchange Act Release Nos. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) ("Order Handling Rules Release"); 51808 (June 9, 2005), 70 FR 37496, 37537-38 (June 29, 2005).

<sup>20</sup> The Commission reminds broker-dealers that they must examine their procedures for seeking to obtain best execution in light of market and technology changes and modify those practices if necessary to enable their customers to obtain the best reasonably available prices. See Order Handling Rules Release, *supra* note 19, at 48323.

<sup>21</sup> For example, a marketable agency order that would have otherwise executed on the Exchange might be prevented from reaching the Exchange on account of other interest from the member that causes it to exceed the pre-established risk limit and thereby results in the Exchange blocking new orders from the member.

<sup>22</sup> 15 U.S.C. 78s(b)(2).

<sup>23</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.

by including LTSE in its table in Rule 4759.<sup>5</sup>

As proposed, the Exchange will use securities information processor (“SIP”) data, *i.e.*, CQS SIP data, for securities reported under the Consolidated Quotation Services and Consolidated Quotation Plan and UQDF SIP data for securities reported under the Nasdaq Unlisted Trading Privileges Plan to obtain LTSE quotation information.<sup>6</sup> While the Exchange currently utilizes proprietary market data as the primary source of quotation data for certain markets that provide a reliable direct feed,<sup>7</sup> the Exchange will solely utilize the SIP data for LTSE because LTSE will only distribute market data using the SIPs.<sup>8</sup> No secondary source for LTSE market data will be specified because LTSE has announced that it will not maintain a proprietary market data feed.<sup>9</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</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.

The Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market because adding LTSE to its list of market centers for which the exchange consumes quotation data will provide clarity to market participants. Additionally, it is necessary and consistent with the public interest and the protection of investors to add LTSE to the Exchange’s table in Rule 4759 in order to provide transparency with

respect to all the proprietary and network processor feeds from which the Exchange obtains market data. Further, the Exchange also believes that it is consistent with the Act to specify that the Exchange will consume quotation data for LTSE from the SIP feed, to enhance clarity to market participants.

### 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 proposed rule change is not designed to address any competitive issue; instead, its purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds.

### 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>12</sup> and Rule 19b-4(f)(6) thereunder.<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.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</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 satisfied this requirement.

## 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-2020-015 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-2020-015. 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-2020-015 and should be submitted on or before May 5, 2020.

<sup>5</sup> A similar proposed rule change has been proposed by one other exchange. See Securities Exchange Act Release No. 88313 (March 3, 2020), 85 FR 13684 (March 9, 2020) (SR-EX-2020-03).

<sup>6</sup> The LTSE’s Market Center Originator ID on the SIP will be “L”. See LTSE Updated FAQ for Exchange Operations published on February 28, 2020, available at: <https://longtermstockexchange.com/static/MA-2020-003-f00ac3fc666c5521974cd55976404019.pdf>.

<sup>7</sup> The Exchange utilizes proprietary market data as the Primary Source of quotation data for the following markets: NYSE American, Nasdaq BX, CBOE EDGA, CBOE EDGX, NYSE, NYSE Arca, Nasdaq, Nasdaq PSX, CBOE BYX, and CBOE BZX.

<sup>8</sup> See LTSE Updated FAQ for Exchange Operations published on February 28, 2020, available at: <https://longtermstockexchange.com/static/MA-2020-003-f00ac3fc666c5521974cd55976404019.pdf>.

<sup>9</sup> See *id.*

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88596; File No. SR-NYSEArca-2020-29]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

April 8, 2020.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 1, 2020, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 modify the NYSE Arca Options Fee Schedule (“Fee Schedule”) to waive certain Floor-based fixed fees for the month of April 2020. The Exchange proposes to implement the fee change effective April 1, 2020. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.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 self-regulatory organization 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 those 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 parts of such statements.

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

##### 1. Purpose

The purpose of this filing is to modify the Fee Schedule to waive certain Floor-based fixed fees for the month of April 2020. The Exchange proposes to implement the fee change effective April 1, 2020.

On March 18, 2020, the Exchange announced that it would temporarily close the Trading Floor, effective Monday, March 23, 2020, as a precautionary measure to prevent the potential spread of COVID-19. Because the Trading Floor is temporarily unavailable, the Exchange proposes to waive for April 2020 certain Floor-based fixed fees. Specifically, for the month of April 2020, the Exchange proposes to waive fees associated with:

- Floor Booths;
- Market Maker Podia;
- Options Floor Access;
- Wire Services; and
- ISP Connection.<sup>4</sup>

The Exchange notes that these fixed fees, which relate directly to Floor operations, are charged only to Floor participants and do not apply to participants that conduct business off-Floor. These fees are unrelated to trading volume and are charged for use of services made available to Floor participants on the Trading Floor. This proposed change is designed to reduce monthly costs for Floor participants while the Trading Floor is temporarily closed and Floor participants are unable to use the services associated with these fixed fees. The Exchange believes that this fee waiver would ease the financial burden and allow affected participants to reallocate funds to assist with the cost of shifting operations from on-Floor to off-Floor. Absent this change, such participants may experience an unintended increase in the cost of doing business on the Exchange.<sup>5</sup>

<sup>4</sup> See proposed Fee Schedule, NYSE Arca OPTIONS: FLOOR and EQUIPMENT and CO-LOCATION FEES. The Exchange will re-evaluate the time limitations on this change (*i.e.*, whether it will need to apply to May) depending upon how long the Trading Floor remains temporarily closed and would file a separate proposed rule change if an extension is warranted.

<sup>5</sup> The Exchange will refund participants of the Floor Broker Prepayment Program for any prepaid April 2020 fees that are waived. See proposed Fee Schedule, FLOOR BROKER FIXED COST PREPAYMENT INCENTIVE PROGRAM (the “FB Prepay Program”) (providing that “the Exchange

The Exchange believes that all OTP Holders that conduct business on the Trading Floor would benefit from this proposed fee change.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>7</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

#### The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>8</sup>

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.<sup>9</sup> Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in January 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.<sup>10</sup>

This proposed change is designed to reduce monthly costs for Floor

will refund certain of the prepaid Eligible Fixed costs that were waived for April 2020, per Sections NYSE Arca OPTIONS: FLOOR and EQUIPMENT and CO-LOCATION FEES”).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>8</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7-10-04) (“Reg NMS Adopting Release”).

<sup>9</sup> The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/market-data/volume/default.jsp>.

<sup>10</sup> Based on OCC data, *see id.*, in 2019, the Exchange’s market share in equity-based options was 9.57% for the month of January 2019 and 9.59% for the month of January 2020.

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

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.