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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR 2021 - \* 094

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"/>
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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 checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010  
Section 806(e)(1) \*

Section 806(e)(2) \*

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934  
Section 3C(b)(2) \*

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

### Description

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

Adopt a Post-Only Quote Configuration Risk Protection

### 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 \* Angela Last Name \* Dunn  
Title \* Principal Associate General Counsel  
E-mail \* angela.dunn@nasdaq.com  
Telephone \* (215) 496-5692 Fax

### Signature

Pursuant to the requirements of the Securities Exchange of 1934, The Nasdaq Stock Market LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 11/19/2021 (Title \*)  
By John Zecca EVP and Chief Legal Officer  
(Name \*)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

 Date: 2021.11.19 15:40:56 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information \***

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SR-NASDAQ-2021-094 19b-4.doc

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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SR-NASDAQ-2021-094 Exhibit 1.doc

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 Advanced 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 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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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 Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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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 Sent As Paper Document

**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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SR-NASDAQ-2021-094 Exhibit 5.doc

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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> is filing with the Securities and Exchange Commission (“Commission”) a proposal to amend The Nasdaq Options Market LLC (“NOM”) Rules at Options 3, Section 15, Risk Protections, to adopt an optional Post-Only Quoting Protection for NOM Market Makers.

The Exchange also proposes to correct certain minor technical amendments within Options 1, Section 1, “Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols.”<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 November 5, 2020. 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.

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

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

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

<sup>3</sup> Options 3, Section 7 describes the order types available on NOM as well as the protocols through which market participants may submit either orders or quotes into NOM.

Angela Saccomandi Dunn  
Principal Associate General Counsel  
Nasdaq, Inc.  
215-496-5692

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

a. Purpose

This proposal amends NOM’s Rules at Options 3, Section 15, Risk Protections, to codify an optional Post-Only Quoting Protection for NOM Market Makers.<sup>4</sup> This optional risk protection allows NOM Market Makers to prevent their quotes from removing liquidity from the Exchange’s order book upon entry. The Exchange also proposes to correct certain minor technical amendments within Options 1, Section 1, “Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols.”<sup>5</sup>

Specifically, this optional risk protection would be codified within Options 3, Section 15(c)(3). With this risk protection, NOM Market Makers may elect to configure their SQF<sup>6</sup> or QUO<sup>7</sup> protocols to prevent their quotes from removing liquidity (“Post-

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<sup>4</sup> Today, NOM offers this functionality which is not currently codified in its rules. Today, no Participant has configured their ports to utilize this feature.

<sup>5</sup> Options 3, Section 7 describes the order types available on NOM as well as the order and quote protocols available to submit orders and quotes into NOM.

<sup>6</sup> “Specialized Quote Feed” or “SQF” is an interface that allows Market Makers to connect, send, and receive messages related to quotes and Immediate-or-Cancel Orders into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; and (8) opening imbalance messages. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker.

Only Quote Configuration”). This Post-Only Quote Configuration re-prices or cancels a NOM Market Maker’s quote that would otherwise lock or cross any resting order<sup>8</sup> or quote on the Exchange’s order book upon entry. The Exchange notes that this functionality does not apply during an Opening Process<sup>9</sup> because the order book is established once options series are open for trading.

Participants may elect whether to re-price or cancel their quotes with this functionality. When configured for re-price, quotes are re-priced to \$.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers). Notwithstanding the aforementioned, and as is the case today, if a quote with a Post-Only Quote Configuration would not lock or cross an order on the System but would lock or cross the NBBO, the quote will be handled pursuant to

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Market Makers may only enter interest into SQF in their assigned options series. See Options 3, Section 7(e)(1)(B).

<sup>7</sup> “Quote Using Orders” or “QUO” is an interface that allows Market Makers to connect, send, and receive messages related to single-sided orders to and from the Exchange. Order Features include the following: (1) options symbol directory messages (e.g., underlying); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications. Orders submitted by Market Makers over this interface are treated as quotes. Market Makers may only enter interest into QUO in their assigned options series. See Options 3, Section 7(e)(1)(D) as proposed to be amended herein.

<sup>8</sup> This would include any re-priced orders as described in Options 3, Section 5(d), any re-priced quotes as described in Options 3, Section 4(b)(6), Post-Only Orders, as described in Options 3, Section 7(a)(9), and Price Improving Orders, as described in Options 3, Section 7(a)(5) and Options 3, Section 5(c). Post-Only Orders and Price Improving Orders may re-price.

<sup>9</sup> The Exchange’s Opening Process is described at Options 3, Section 8.

Options 3, Section 4(b)(6). When configured for cancel, Participants will have their quotes returned whenever the quote would lock or cross the NBBO or be placed on the book at a price other than its limit price.

This optional risk protection enables NOM Market Makers to better manage their risk when quoting on NOM. Today, BOX Exchange LLC (“BOX”),<sup>10</sup> NYSE Arca, Inc. (“NYSE Arca”),<sup>11</sup> and MIAX Emerald, LLC (“MIAX Emerald”)<sup>12</sup> have similar functionality. BOX does not permit Market Maker’s quotes to take liquidity and will reject the quote. Other options markets, unlike BOX, continue to permit their market makers to add or remove liquidity from the order book.<sup>13</sup> NYSE Arca and MIAX Emerald will re-price quotes one minimum price variation (“MPV”) to avoid the quote from trading as a liquidity taker against the resting order. The Exchange’s proposal permits a NOM Market Maker a choice as to whether to cancel or re-price its quote when using the Post-Only Quote Configuration. Unlike NYSE Arca and MIAX Emerald, the

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<sup>10</sup> BOX Rules provide, “Notwithstanding Rule 100(a)(56), all quotes and quote updates on BOX after the opening are liquidity adding only. Specifically, after the Opening Match pursuant to Rule 7070, a Market Maker’s quote will not execute against a resting order or quote on the BOX Book. If an incoming quote is marketable against the BOX Book and will execute against a resting order or quote, it will be rejected.” See BOX IM-8050-3. See also Securities Exchange Act Release No. 79311 (November 15, 2016), 81 FR 83322 (November 21, 2016) (SR-BOX-2016-45) (Order Approving a Proposed Rule Change To Amend the Treatment of Quotes To Provide That All Quotes on BOX Are Liquidity Adding Only).

<sup>11</sup> NYSE Arca permits a market maker to optionally designate a quote as “Add Liquidity Only.” See NYSE Arca Rule 6.37A-O(a)(3)(B).

<sup>12</sup> See MIAX Emerald Rule 517(a)(1)(i).

<sup>13</sup> Miami International Securities Exchange LLC (“MIAX”) permits its market makers to add and remove liquidity from the order book. See MIAX’s Fee Schedule which delineates Maker and Taker pricing. Nasdaq ISE, LLC (“ISE”) also permits market makers to add and remove liquidity from the order book. See ISE’s Pricing Schedule at Options 7.

Exchange would re-price \$.01 below the current low offer (for bids) or above the current best bid (for offers) and display the quote at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers).

Of note, today, all NOM participants may utilize the Post-Only Order type.<sup>14</sup>

Below are some examples of the Post-Only Quote Configuration functionality as well as an example of re-pricing of a Price Improving Order.<sup>15</sup>

**Re-priced Price Improving Order – Penny Interval Program Display and Execution Example – Non-Penny Interval Program (Options 3, Section 7(a)(5))**

- Non-Penny Interval Program MPV in open trading state
- Market Maker A quote \$0.90 (10) x \$1.00 (10)
- ABBO \$0.85 x \$1.05

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<sup>14</sup> “Post-Only Order” is an order that will not remove liquidity from the System. Post-Only Orders are to be ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) if a Post-Only Order would lock or cross an order on the System, the order will be re-priced to \$.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation of another market center, the order will be handled pursuant to Options 3, Section 5(b) – (d). Participants may choose to have their Post-Only Orders returned whenever the order would lock or cross the NBBO or be placed on the book at a price other than its limit price. Post-Only Orders received prior to the opening will be eligible for execution during the opening cross and will be processed as per Options 3, Section 8. Post-Only Orders received after market close will be rejected. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel. (e) Entry and Display of Orders and Quotes. Participants may enter orders and quotes into the System as specified below. See Options 3, Section 7(a)(9).

<sup>15</sup> “Price Improving Order” is an order to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders may be entered in increments as small as one cent. Price Improving Orders that are available for display shall be displayed at the minimum price variation in that security and shall be rounded up for sell orders and rounded down for buy orders. See Options 3, Section 7(a)(5).

- Firm A sends Price Improving Order to buy 5 contracts @ \$0.93
  - Price Improving Order displays \$0.90 bid, which now shows (15 quantity)
- Order arrives to sell 10 contracts @ \$0.90
  - 5 contracts execute with Firm A @ \$0.93
  - 5 contracts execute with Market A @ \$0.90

In this example, the inbound order received price improvement as a result of the available non-displayed interest on the order book.

**Re-priced Post-Only Order – Penny Interval Program Display and Execution  
Example – Non-Penny Interval Program (Options 3 Section 7 (a)(9))**

- Non-Penny Interval Program MPV in open trading state
- Market Maker A quote \$0.95 (10) x \$1.00 (10)
- ABBO \$0.85 x \$1.05
- Firm A sends Post-Only Order to buy 5 contracts @\$1.00
  - Post-Only Order re-prices on order book to \$0.99
  - Displays on order book @ \$0.95 (bid), which now shows (15 quantity)
- Order to sell 10 contracts arrives @ \$0.95
  - 5 contracts execute with Firm A @ \$0.99
  - 5 contracts execute with Market A @ \$0.95

In this example, the inbound order received price improvement as a result of the available non-displayed interest on the order book.

**Re-priced Post-Only Quote – Penny Interval Program Display and Execution  
Example – Non-Penny Interval Program (Options 3 Section 7 (a)(9))**

- Non-Penny Program MPV in open trading state
- Market Maker A quote \$0.95 (10) x \$1.00 (10)
- ABBO \$0.85 x \$1.05
- Market Maker B (configured at the badge level for Post-Only and selection of re-price upon quote) quote arrives 1.00 (5) x \$1.05 (5)
  - Bid side quote re-prices on order book to \$0.99
  - Displays on order book @ \$0.95 (bid), which now shows (15 quantity)
  - Offer side quote books and displays at \$1.05
- Order to sell 10 contracts arrives @ \$0.95
  - 5 contracts execute with Market Maker B @ \$0.99
  - 5 contracts execute with Market A @ \$0.95

In this example, the inbound order received price improvement as a result of the available non-displayed interest on the order book.



Options 3, Sections 1 and 7

The Exchange proposes to correct certain minor technical amendments within Options 1, Section 1, “Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols.”

First, the Exchange proposes to update a citation within Options 3, Section 7(a)(9) which describes the Post-Only Order. The citation to Options 3, Section 22(b)(3)(C) is incorrect. The Exchange proposes to replace this citation with Options 3, Section 5(b)-(d)<sup>16</sup> which describes re-pricing for locked and crossed quotes.

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<sup>16</sup> Options 3, Section 5(b)-(d) provides,

“(b) **NBBO Price Protection.** Orders, other than Intermarket Sweep Orders (as defined in Rule Options 5, Section 1(8)) will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(10)). There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(11)).

(c) The System automatically executes eligible orders using the Exchange's displayed best bid and offer ("BBO") or the Exchange's non-displayed order book ("internal BBO") if the best bid and/or offer on the Exchange has been repriced pursuant to subsection (d) below. The contract size associated with Displayed Price Improving Orders to buy (sell) are displayed at the MPV below (above) the price of the Price Improving Order. Price Improving Orders will not be permitted to create a locked or crossed market or to cause a trade through violation.

(d) **Trade-Through Compliance and Locked or Crossed Markets.** An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.”

Second, the Exchange proposes to amend the term “Nasdaq Options Market Maker” or “Options Market Maker” within Options 1, Section 1, “Definitions.” Specifically, this term within Options 1, Section 1(a)(27) describes an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Options 2 of these Rules. The Exchange proposes to add “Market Maker” as an alternative term for a Nasdaq Options Market Maker.

Third, the Exchange proposes to amend the term “NOM Market Makers” within Options 3, Section 7(e)(1)(D) which describes the “Quote Using Orders” or “QUO” quote protocol. The Exchange proposes to replace the term “NOM Market Makers” with “Market Makers” as proposed to be defined within Options 1, Section 1(a)(27).<sup>17</sup> The Exchange believes utilizing “Market Makers” in addition to “Nasdaq Options Market Maker” and “Options Market Maker” will conform the use of that term throughout the Rulebook.

#### Implementation

The Exchange proposes to implement this functionality prior to June 30, 2022. The Exchange will issue an Options Trader Alert to Participants specifying the date of implementation.

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<sup>17</sup> The term “Nasdaq Options Market Maker” or “Options Market Maker” mean an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Options 2 of these Rules. See Options 3, Section 1(a)(27).

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>18</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>19</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by enhancing the risk protections available to NOM Market Makers. The proposal also promotes the policy goals of the Commission which has encouraged execution venues, exchanges, and non-exchanges alike, to enhance risk protection tools and other mechanisms to decrease risk and increase stability. This proposal is similar to functionality currently on BOX, NYSE Arca, and MIAX Emerald.<sup>20</sup>

The Exchange's proposal to amend Options 3, Section 15, Risk Protections, to codify new paragraph (c)(3) to permit NOM Market Makers to prevent their quotes from removing liquidity from the Exchange's order book is consistent with the Act for several reasons. While NOM Market Makers may manage their risk by utilizing the Post-Only Quote Configuration to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on the NOM order book upon entry, there are also downstream benefits to market participants. Re-priced interest on the order book provides price improvement for market participants that interact with that non-displayed interest that is priced better than the NBBO. For example, a Post-Only Order may re-price to \$.01 below the current low offer (for bids) or above the

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<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

<sup>20</sup> See notes 10-12 above.

current best bid (for offers) and is displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers) the result is that there is better-priced non-displayed interest available on the order book. Market participants are entitled to the better-priced interest when they interact with the re-priced Post-Only Order on the order book. Additionally, the benefits of enhanced risk protections flow downstream to counterparties both within and away from the Exchange, thereby increasing systemic protections as well.

The proposed risk protection allows NOM Market Makers the ability to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on NOM's order book upon entry, thereby protecting investors and the general public as NOM Market Makers transact a large number of orders on the Exchange and bring liquidity to the marketplace. NOM Market Makers would utilize the proposed risk protection to avoid unexpectedly taking liquidity with non-displayed, non-transparent interest<sup>21</sup> on the order book. As a result of taking liquidity, NOM Market Makers would incur a taker fee that may impact the NOM Market Maker's ability to provide liquidity and meet quoting obligations. NOM Market Makers are required to add liquidity on NOM and, in turn, are rewarded with lower pricing<sup>22</sup> and enhanced allocations.<sup>23</sup> Specifically, the risk protection would permit NOM Market Makers to add liquidity only and avoid removing non-displayed interest on the order book thereby maximizing the benefit of their quoting to bring liquidity to NOM by allowing NOM Market Makers to provide as much liquidity as possible, thereby

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<sup>21</sup> See note 8 above.

<sup>22</sup> See Options 7, Section 2.

<sup>23</sup> See Options 3, Section 10.

removing impediments to and perfecting the mechanism of a free and open market and a national market system and protecting investors and the public interest. There is no impact to other market participants by introducing this Post-Only Quote Configuration as other non-Market Makers may continue to utilize the Post-Only Order functionality and this functionality will continue to benefit downstream counterparties, both within and away from the Exchange, who may interact with NOM's non-displayed order book and thereby interact with order flow that is priced better than the NBBO. Also, other market participants may interact with the liquidity provided by NOM Market Makers.

Of note, NOM does not offer auction functionality. An auction mechanism may interact adversely with Post-Only Orders or quotes with a Post-Only Quote Configuration that are re-priced in \$0.01 increments and displayed at minimum price variation increments. In this example, the inbound auction would reject against the non-displayed Post-Only Order or quote with a Post-Only Quote Configuration if NOM were to have an auction mechanism. NOM has no such auctions and, as shown in the examples described herein, market participants may access any non-displayed liquidity, resulting in price improvement for the market participant.

Unlike other market participants, NOM Market Makers have certain obligations on the market. NOM Market Makers are required to provide continuous two-sided quotes on a daily basis<sup>24</sup> and are subject to various obligations associated with providing liquidity on the market.<sup>25</sup> NOM Market Makers are the sole liquidity providers on the Exchange and, therefore, are offered certain quote risk protections noted within Options

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<sup>24</sup> See NOM Options 2, Section 5(d).

<sup>25</sup> See NOM Options 2, Section 4.

3, Section 15 to allow them to manage their risk more effectively.<sup>26</sup> The proposed Post-Only Quote Configuration is another risk protection afforded to NOM Market Makers to assist them in managing their risk while continuing to comply with their obligations. The Exchange notes that enhancing the ability of NOM Market Makers to add liquidity and avoid taking liquidity from the order book promotes just and equitable principles of trade on NOM and protects investors and the public interest, thereby enhancing market structure by allowing NOM Market Makers to add liquidity only. Greater liquidity benefits all market participants by providing more trading opportunities and attracting greater participation by NOM Market Makers. Also, an increase in the activity of NOM Market Makers in turn facilitates tighter spreads.

Finally, today, all Participants may submit Post-Only Orders.<sup>27</sup> Offering NOM Market Makers the ability to configure their quotes as Post-Only will allow all market participants on NOM to enter interest with a Post-Only designation.

#### Options 3, Sections 1 and 7

The Exchange proposal to correct certain minor technical amendments within Options 1, Section 1, “Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols” is consistent with the Act as updating the citation within Options 3, Section 7(a)(9) which describes the Post-Only Order, amending the term “Nasdaq Options Market Maker” or “Options Market Maker” within Options 1, Section 1, “Definitions,” and replacing the term “NOM Market Makers” within Options 3, Section 7(e)(1)(D) which describes the “Quote Using Orders” or “QUO” quote protocol

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<sup>26</sup> Options 3, Section 15(c) describes the Anti-Internalization and Quotation Adjustments Protections that are available today to NOM Market Makers.

<sup>27</sup> See Options 3, Section 7(a)(9).

with “Market Makers” as proposed to be defined within Options 3, Section 1(a)(27) will bring greater clarity to these rules. The Exchange believes utilizing “Market Makers” in addition to “Nasdaq Options Market Maker” and “Options Market Maker” will conform the use of that term throughout the Rulebook.

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, this proposal provides NOM Market Makers with the opportunity to continue to avail themselves of functionality that currently on BOX, NYSE Arca, and MIAX Emerald.<sup>28</sup>

The proposal does not impose a burden on inter-market competition, because Participants may choose to become market makers on a number of other options exchanges, which may have similar but not identical features. The Post-Only Quote Configuration functionality will continue to benefit downstream counterparties, both within and away from the Exchange, who may interact with NOM’s non-displayed order book and thereby interact with order flow that is priced better than the NBBO.

The proposal does not impose a burden on intra-market competition. Today, all Participants may submit Post-Only Orders and receive similar treatment for their orders. Offering NOM Market Makers the ability to configure their quotes as Post-Only will allow all market participants on NOM to enter interest with a Post-Only designation.

The proposed risk protection allows NOM Market Makers the ability to avoid removing liquidity from the Exchange’s order book if their quote would otherwise lock

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<sup>28</sup> See notes 10-12 above.

or cross any resting order or quote on NOM's order book upon entry, thereby protecting investors and the general public as NOM Market Makers transact a large number of orders on the Exchange and bring liquidity to the marketplace. NOM Market Makers are required to add liquidity on NOM and, in turn, are rewarded with lower pricing<sup>29</sup> and enhanced allocations.<sup>30</sup> Specifically, the risk protection would permit NOM Market Makers to add liquidity only and avoid removing non-displayed interest on the order book thereby maximizing the benefit of their quoting to bring liquidity to NOM by allowing NOM Market Makers to provide as much liquidity as possible. Unlike other market participants, NOM Market Makers have certain obligations on the market. NOM Market Makers are required to provide continuous two-sided quotes on a daily basis<sup>31</sup> and are subject to various obligations associated with providing liquidity on the market.<sup>32</sup> NOM Market Makers are the sole liquidity providers on the Exchange and, therefore, are offered certain quote risk protections noted within Options 3, Section 15 to allow them to manage their risk more effectively.<sup>33</sup> The proposed Post-Only Quote Configuration is another risk protection afforded to NOM Market Makers to assist them in managing their risk while continuing to comply with their obligations.

Options 3, Sections 1 and 7

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<sup>29</sup> See Options 7, Section 2.

<sup>30</sup> See Options 3, Section 10.

<sup>31</sup> See NOM Options 2, Section 5(d).

<sup>32</sup> See NOM Options 2, Section 4.

<sup>33</sup> Options 3, Section 15(c) describes the Anti-Internalization and Quotation Adjustments Protections that are available today to NOM Market Makers.



The Exchange proposal to correct certain minor technical amendments within Options 1, Section 1, “Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols” does not impose an undue burden on competition as updating the citation within Options 3, Section 7(a)(9) which describes the Post-Only Order, amending the term “Nasdaq Options Market Maker” or “Options Market Maker” within Options 1, Section 1, “Definitions,” and replacing the term “NOM Market Makers” within Options 3, Section 7(e)(1)(D) which describes the “Quote Using Orders” or “QUO” quote protocol with “Market Makers” as proposed to be defined within Options 3, Section 1(a)(27) will bring greater clarity to these rules. The Exchange believes utilizing “Market Makers” in addition to “Nasdaq Options Market Maker” and “Options Market Maker” will conform the use of that term throughout the Rulebook.

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>34</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>35</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

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<sup>34</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>35</sup> 17 CFR 240.19b-4(f)(6).

Commission may designate if consistent with the protection of investors and the public interest.

The Exchange believes that this proposal does not significantly affect the protection of investors or the public interest. The proposal also promotes the policy goals of the Commission which has encouraged execution venues, exchanges, and non-exchanges alike, to enhance risk protection tools and other mechanisms to decrease risk and increase stability. This proposal is similar to functionality currently on BOX, NYSE Arca, and MIAX Emerald.<sup>36</sup> While NOM Market Makers may manage their risk by utilizing the Post-Only Quote Configuration to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on the NOM order book upon entry, there are also downstream benefits to market participants. The Exchange believes that this proposal does not impose any significant burden on competition. NOM Market Makers are required to add liquidity on NOM and, in turn, are rewarded with lower pricing<sup>37</sup> and enhanced allocations.<sup>38</sup> Specifically, the risk protection would permit NOM Market Makers to add liquidity only and avoid removing non-displayed interest on the order book thereby maximizing the benefit of their quoting to bring liquidity to NOM by allowing NOM Market Makers to provide as much liquidity as possible. Unlike other market participants, NOM Market Makers have certain obligations on the market. NOM Market Makers are required to provide

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<sup>36</sup> See notes 10-12 above.

<sup>37</sup> See Options 7, Section 2.

<sup>38</sup> See Options 3, Section 10.

continuous two-sided quotes on a daily basis<sup>39</sup> and are subject to various obligations associated with providing liquidity on the market.<sup>40</sup> NOM Market Makers are the sole liquidity providers on the Exchange and, therefore, are offered certain quote risk protections noted within Options 3, Section 15 to allow them to manage their risk more effectively.<sup>41</sup> The proposed Post-Only Quote Configuration is another risk protection afforded to NOM Market Makers to assist them in managing their risk while continuing to comply with their obligations.

Furthermore, Rule 19b-4(f)(6)(iii)<sup>42</sup> 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 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 should be approved or disapproved.

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<sup>39</sup> See NOM Options 2, Section 5(d).

<sup>40</sup> See NOM Options 2, Section 4.

<sup>41</sup> Options 3, Section 15(c) describes the Anti-Internalization and Quotation Adjustments Protections that are available today to NOM Market Makers.

<sup>42</sup> 17 CFR 240.19b-4(f)(6)(iii).

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

The proposed functionality is similar to functionality that currently exists on BOX, although it is not optional on BOX.<sup>43</sup> BOX does not permit Market Maker's quotes to take liquidity and will reject the quote. Other options markets, unlike BOX, continue to permit their market makers to add or remove liquidity from the order book.<sup>44</sup> NYSE Arca, similar to the Exchange's proposal, permits a market maker to optionally designate a quote as "Add Liquidity Only."<sup>45</sup> MIAX Emerald also offers Post-Only Quotes that, if elected, will not remove liquidity from the order book.<sup>46</sup> NYSE Arca and MIAX Emerald will re-price quotes one minimum price variation ("MPV") to avoid the quote from trading as a liquidity taker against the resting order. The Exchange's proposal permits a NOM Market Maker a choice as to whether to cancel or re-price its quote when using the Post-Only Quote Configuration. Unlike NYSE Arca and MIAX Emerald, the Exchange would re-price \$.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers).

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

Not applicable.

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<sup>43</sup> See BOX IM-8050-3

<sup>44</sup> Miami International Securities Exchange LLC ("MIAX") permits its market makers to add and remove liquidity from the order book. See MIAX's Fee Schedule which delineates Maker and Taker pricing. Nasdaq ISE, LLC ("ISE") also permits market makers to add and remove liquidity from the order book. See ISE's Pricing Schedule at Options 7.

<sup>45</sup> See NYSE Arca Rule 6.37A-O(a)(3)(B).

<sup>46</sup> See MIAX Emerald Rule 517(a)(1)(i).

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-2021-094)

November \_\_, 2021

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a Post-Only Quote Configuration Risk Protection

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 November 19, 2021, 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 amend The Nasdaq Options Market LLC (“NOM”) Rules at Options 3, Section 15, Risk Protections, to adopt an optional Post-Only Quoting Protection for NOM Market Makers.

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

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

The Exchange also proposes to correct certain minor technical amendments within Options 1, Section 1, “Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols.”<sup>3</sup>

The text of the proposed rule change is available on the Exchange’s Website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, 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

The proposal amends NOM’s Rules at Options 3, Section 15, Risk Protections, to codify an optional Post-Only Quoting Protection for NOM Market Makers.<sup>4</sup> This optional risk protection allows NOM Market Makers to prevent their quotes from removing liquidity from the Exchange’s order book upon entry. The Exchange also proposes to correct certain minor technical amendments within Options 1, Section 1,

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<sup>3</sup> Options 3, Section 7 describes the order types available on NOM as well as the protocols through which market participants may submit either orders or quotes into NOM.

<sup>4</sup> Today, NOM offers this functionality which is not currently codified in its rules. Today, no Participant has configured their ports to utilize this feature.

“Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols.”<sup>5</sup>

Specifically, this optional risk protection would be codified within Options 3, Section 15(c)(3). With this risk protection, NOM Market Makers may elect to configure their SQF<sup>6</sup> or QUO<sup>7</sup> protocols to prevent their quotes from removing liquidity (“Post-Only Quote Configuration”). This Post-Only Quote Configuration re-prices or cancels a NOM Market Maker’s quote that would otherwise lock or cross any resting order<sup>8</sup> or

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<sup>5</sup> Options 3, Section 7 describes the order types available on NOM as well as the order and quote protocols available to submit orders and quotes into NOM.

<sup>6</sup> “Specialized Quote Feed” or “SQF” is an interface that allows Market Makers to connect, send, and receive messages related to quotes and Immediate-or-Cancel Orders into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; and (8) opening imbalance messages. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. See Options 3, Section 7(e)(1)(B).

<sup>7</sup> “Quote Using Orders” or “QUO” is an interface that allows Market Makers to connect, send, and receive messages related to single-sided orders to and from the Exchange. Order Features include the following: (1) options symbol directory messages (e.g., underlying); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications. Orders submitted by Market Makers over this interface are treated as quotes. Market Makers may only enter interest into QUO in their assigned options series. See Options 3, Section 7(e)(1)(D) as proposed to be amended herein.

<sup>8</sup> This would include any re-priced orders as described in Options 3, Section 5(d), any re-priced quotes as described in Options 3, Section 4(b)(6), Post-Only Orders, as described in Options 3, Section 7(a)(9), and Price Improving Orders, as described in Options 3, Section 7(a)(5) and Options 3, Section 5(c). Post-Only Orders and Price Improving Orders may re-price.



quote on the Exchange's order book upon entry. The Exchange notes that this functionality does not apply during an Opening Process<sup>9</sup> because the order book is established once options series are open for trading.

Participants may elect whether to re-price or cancel their quotes with this functionality. When configured for re-price, quotes are re-priced to \$.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers). Notwithstanding the aforementioned, and as is the case today, if a quote with a Post-Only Quote Configuration would not lock or cross an order on the System but would lock or cross the NBBO, the quote will be handled pursuant to Options 3, Section 4(b)(6). When configured for cancel, Participants will have their quotes returned whenever the quote would lock or cross the NBBO or be placed on the book at a price other than its limit price.

This optional risk protection enables NOM Market Makers to better manage their risk when quoting on NOM. Today, BOX Exchange LLC ("BOX"),<sup>10</sup> NYSE Arca, Inc.

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<sup>9</sup> The Exchange's Opening Process is described at Options 3, Section 8.

<sup>10</sup> BOX Rules provide, "Notwithstanding Rule 100(a)(56), all quotes and quote updates on BOX after the opening are liquidity adding only. Specifically, after the Opening Match pursuant to Rule 7070, a Market Maker's quote will not execute against a resting order or quote on the BOX Book. If an incoming quote is marketable against the BOX Book and will execute against a resting order or quote, it will be rejected." See BOX IM-8050-3. See also Securities Exchange Act Release No. 79311 (November 15, 2016), 81 FR 83322 (November 21, 2016) (SR-BOX-2016-45) (Order Approving a Proposed Rule Change To Amend the Treatment of Quotes To Provide That All Quotes on BOX Are Liquidity Adding Only).

(“NYSE Arca”),<sup>11</sup> and MIAX Emerald, LLC (“MIAX Emerald”)<sup>12</sup> have similar functionality. BOX does not permit Market Maker’s quotes to take liquidity and will reject the quote. Other options markets, unlike BOX, continue to permit their market makers to add or remove liquidity from the order book.<sup>13</sup> NYSE Arca and MIAX Emerald will re-price quotes one minimum price variation (“MPV”) to avoid the quote from trading as a liquidity taker against the resting order. The Exchange’s proposal permits a NOM Market Maker a choice as to whether to cancel or re-price its quote when using the Post-Only Quote Configuration. Unlike NYSE Arca and MIAX Emerald, the Exchange would re-price \$.01 below the current low offer (for bids) or above the current best bid (for offers) and display the quote at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers).

Of note, today, all NOM participants may utilize the Post-Only Order type.<sup>14</sup>

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<sup>11</sup> NYSE Arca permits a market maker to optionally designate a quote as “Add Liquidity Only.” See NYSE Arca Rule 6.37A-O(a)(3)(B).

<sup>12</sup> See MIAX Emerald Rule 517(a)(1)(i).

<sup>13</sup> Miami International Securities Exchange LLC (“MIAX”) permits its market makers to add and remove liquidity from the order book. See MIAX’s Fee Schedule which delineates Maker and Taker pricing. Nasdaq ISE, LLC (“ISE”) also permits market makers to add and remove liquidity from the order book. See ISE’s Pricing Schedule at Options 7.

<sup>14</sup> “Post-Only Order” is an order that will not remove liquidity from the System. Post-Only Orders are to be ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) if a Post-Only Order would lock or cross an order on the System, the order will be re-priced to \$.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation

Below are some examples of the Post-Only Quote Configuration functionality as well as an example of re-pricing of a Price Improving Order.<sup>15</sup>

**Re-priced Price Improving Order – Penny Interval Program Display and Execution Example – Non-Penny Interval Program (Options 3, Section 7(a)(5))**

- Non-Penny Interval Program MPV in open trading state
- Market Maker A quote \$0.90 (10) x \$1.00 (10)
- ABBO \$0.85 x \$1.05
- Firm A sends Price Improving Order to buy 5 contracts @ \$0.93
  - Price Improving Order displays \$0.90 bid, which now shows (15 quantity)
- Order arrives to sell 10 contracts @ \$0.90
  - 5 contracts execute with Firm A @ \$0.93
  - 5 contracts execute with Market A @ \$0.90

In this example, the inbound order received price improvement as a result of the available non-displayed interest on the order book.

**Re-priced Post-Only Order – Penny Interval Program Display and Execution Example – Non-Penny Interval Program (Options 3 Section 7 (a)(9))**

- Non-Penny Interval Program MPV in open trading state
- Market Maker A quote \$0.95 (10) x \$1.00 (10)
- ABBO \$0.85 x \$1.05
- Firm A sends Post-Only Order to buy 5 contracts @\$1.00

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of another market center, the order will be handled pursuant to Options 3, Section 5(b) – (d). Participants may choose to have their Post-Only Orders returned whenever the order would lock or cross the NBBO or be placed on the book at a price other than its limit price. Post-Only Orders received prior to the opening will be eligible for execution during the opening cross and will be processed as per Options 3, Section 8. Post-Only Orders received after market close will be rejected. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel. (e) Entry and Display of Orders and Quotes. Participants may enter orders and quotes into the System as specified below. See Options 3, Section 7(a)(9).

<sup>15</sup> “Price Improving Order” is an order to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders may be entered in increments as small as one cent. Price Improving Orders that are available for display shall be displayed at the minimum price variation in that security and shall be rounded up for sell orders and rounded down for buy orders. See Options 3, Section 7(a)(5).

- Post-Only Order re-prices on order book to \$0.99
- Displays on order book @ \$0.95 (bid), which now shows (15 quantity)
- Order to sell 10 contracts arrives @ \$0.95
  - 5 contracts execute with Firm A @ \$0.99
  - 5 contracts execute with Market A @ \$0.95

In this example, the inbound order received price improvement as a result of the available non-displayed interest on the order book.

**Re-priced Post-Only Quote – Penny Interval Program Display and Execution  
Example – Non-Penny Interval Program (Options 3 Section 7 (a)(9))**

- Non-Penny Program MPV in open trading state
- Market Maker A quote \$0.95 (10) x \$1.00 (10)
- ABBO \$0.85 x \$1.05
- Market Maker B (configured at the badge level for Post-Only and selection of re-price upon quote) quote arrives 1.00 (5) x \$1.05 (5)
  - Bid side quote re-prices on order book to \$0.99
  - Displays on order book @ \$0.95 (bid), which now shows (15 quantity)
  - Offer side quote books and displays at \$1.05
- Order to sell 10 contracts arrives @ \$0.95
  - 5 contracts execute with Market Maker B @ \$0.99
  - 5 contracts execute with Market A @ \$0.95

In this example, the inbound order received price improvement as a result of the available non-displayed interest on the order book.

Options 3, Sections 1 and 7

The Exchange proposes to correct certain minor technical amendments within Options 1, Section 1, “Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols.”

First, the Exchange proposes to update a citation within Options 3, Section 7(a)(9) which describes the Post-Only Order. The citation to Options 3, Section 22(b)(3)(C) is incorrect. The Exchange proposes to replace this citation with Options 3, Section 5(b)-

(d)<sup>16</sup> which describes re-pricing for locked and crossed quotes.

Second, the Exchange proposes to amend the term “Nasdaq Options Market Maker” or “Options Market Maker” within Options 1, Section 1, “Definitions.” Specifically, this term within Options 1, Section 1(a)(27) describes an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Options 2 of these Rules. The Exchange proposes to add “Market Maker” as an alternative term for a Nasdaq Options Market Maker.

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<sup>16</sup> Options 3, Section 5(b)-(d) provides,

“(b) **NBBO Price Protection.** Orders, other than Intermarket Sweep Orders (as defined in Rule Options 5, Section 1(8)) will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(10)). There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(11)).

(c) The System automatically executes eligible orders using the Exchange's displayed best bid and offer (“BBO”) or the Exchange's non-displayed order book (“internal BBO”) if the best bid and/or offer on the Exchange has been repriced pursuant to subsection (d) below. The contract size associated with Displayed Price Improving Orders to buy (sell) are displayed at the MPV below (above) the price of the Price Improving Order. Price Improving Orders will not be permitted to create a locked or crossed market or to cause a trade through violation.

(d) **Trade-Through Compliance and Locked or Crossed Markets.** An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.”

Third, the Exchange proposes to amend the term “NOM Market Makers” within Options 3, Section 7(e)(1)(D) which describes the “Quote Using Orders” or “QUO” quote protocol. The Exchange proposes to replace the term “NOM Market Makers” with “Market Makers” as proposed to be defined within Options 1, Section 1(a)(27).<sup>17</sup> The Exchange believes utilizing “Market Makers” in addition to “Nasdaq Options Market Maker” and “Options Market Maker” will conform the use of that term throughout the Rulebook.

### Implementation

The Exchange proposes to implement this functionality prior to June 30, 2022. The Exchange will issue an Options Trader Alert to Participants specifying the date of implementation.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>18</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>19</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by enhancing the risk protections available to NOM Market Makers. The proposal also promotes the policy goals of the Commission which has encouraged execution venues, exchanges, and non-exchanges alike, to enhance risk protection tools and other mechanisms to decrease risk and increase stability. This

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<sup>17</sup> The term “Nasdaq Options Market Maker” or “Options Market Maker” mean an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Options 2 of these Rules. See Options 3, Section 1(a)(27).

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

proposal is similar to functionality currently on BOX, NYSE Arca, and MIAX Emerald.<sup>20</sup>

The Exchange's proposal to amend Options 3, Section 15, Risk Protections, to codify new paragraph (c)(3) to permit NOM Market Makers to prevent their quotes from removing liquidity from the Exchange's order book is consistent with the Act for several reasons. While NOM Market Makers may manage their risk by utilizing the Post-Only Quote Configuration to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on the NOM order book upon entry, there are also downstream benefits to market participants. Re-priced interest on the order book provides price improvement for market participants that interact with that non-displayed interest that is priced better than the NBBO. For example, a Post-Only Order may re-price to \$.01 below the current low offer (for bids) or above the current best bid (for offers) and is displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers) the result is that there is better-priced non-displayed interest available on the order book. Market participants are entitled to the better-priced interest when they interact with the re-priced Post-Only Order on the order book. Additionally, the benefits of enhanced risk protections flow downstream to counterparties both within and away from the Exchange, thereby increasing systemic protections as well.

The proposed risk protection allows NOM Market Makers the ability to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on NOM's order book upon entry, thereby protecting

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<sup>20</sup> See notes 10-12 above.

investors and the general public as NOM Market Makers transact a large number of orders on the Exchange and bring liquidity to the marketplace. NOM Market Makers would utilize the proposed risk protection to avoid unexpectedly taking liquidity with non-displayed, non-transparent interest<sup>21</sup> on the order book. As a result of taking liquidity, NOM Market Makers would incur a taker fee that may impact the NOM Market Maker's ability to provide liquidity and meet quoting obligations. NOM Market Makers are required to add liquidity on NOM and, in turn, are rewarded with lower pricing<sup>22</sup> and enhanced allocations.<sup>23</sup> Specifically, the risk protection would permit NOM Market Makers to add liquidity only and avoid removing non-displayed interest on the order book thereby maximizing the benefit of their quoting to bring liquidity to NOM by allowing NOM Market Makers to provide as much liquidity as possible, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system and protecting investors and the public interest. There is no impact to other market participants by introducing this Post-Only Quote Configuration as other non-Market Makers may continue to utilize the Post-Only Order functionality and this functionality will continue to benefit downstream counterparties, both within and away from the Exchange, who may interact with NOM's non-displayed order book and thereby interact with order flow that is priced better than the NBBO. Also, other market participants may interact with the liquidity provided by NOM Market Makers.

Of note, NOM does not offer auction functionality. An auction mechanism may

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<sup>21</sup> See note 8 above.

<sup>22</sup> See Options 7, Section 2.

<sup>23</sup> See Options 3, Section 10.



interact adversely with Post-Only Orders or quotes with a Post-Only Quote Configuration that are re-priced in \$0.01 increments and displayed at minimum price variation increments. In this example, the inbound auction would reject against the non-displayed Post-Only Order or quote with a Post-Only Quote Configuration if NOM were to have an auction mechanism. NOM has no such auctions and, as shown in the examples described herein, market participants may access any non-displayed liquidity, resulting in price improvement for the market participant.

Unlike other market participants, NOM Market Makers have certain obligations on the market. NOM Market Makers are required to provide continuous two-sided quotes on a daily basis<sup>24</sup> and are subject to various obligations associated with providing liquidity on the market.<sup>25</sup> NOM Market Makers are the sole liquidity providers on the Exchange and, therefore, are offered certain quote risk protections noted within Options 3, Section 15 to allow them to manage their risk more effectively.<sup>26</sup> The proposed Post-Only Quote Configuration is another risk protection afforded to NOM Market Makers to assist them in managing their risk while continuing to comply with their obligations. The Exchange notes that enhancing the ability of NOM Market Makers to add liquidity and avoid taking liquidity from the order book promotes just and equitable principles of trade on NOM and protects investors and the public interest, thereby enhancing market structure by allowing NOM Market Makers to add liquidity only. Greater liquidity

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<sup>24</sup> See NOM Options 2, Section 5(d).

<sup>25</sup> See NOM Options 2, Section 4.

<sup>26</sup> Options 3, Section 15(c) describes the Anti-Internalization and Quotation Adjustments Protections that are available today to NOM Market Makers.

benefits all market participants by providing more trading opportunities and attracting greater participation by NOM Market Makers. Also, an increase in the activity of NOM Market Makers in turn facilitates tighter spreads.

Finally, today, all Participants may submit Post-Only Orders.<sup>27</sup> Offering NOM Market Makers the ability to configure their quotes as Post-Only will allow all market participants on NOM to enter interest with a Post-Only designation.

Options 3, Sections 1 and 7

The Exchange proposal to correct certain minor technical amendments within Options 1, Section 1, “Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols” is consistent with the Act as updating the citation within Options 3, Section 7(a)(9) which describes the Post-Only Order, amending the term “Nasdaq Options Market Maker” or “Options Market Maker” within Options 1, Section 1, “Definitions,” and replacing the term “NOM Market Makers” within Options 3, Section 7(e)(1)(D) which describes the “Quote Using Orders” or “QUO” quote protocol with “Market Makers” as proposed to be defined within Options 3, Section 1(a)(27) will bring greater clarity to these rules. The Exchange believes utilizing “Market Makers” in addition to “Nasdaq Options Market Maker” and “Options Market Maker” will conform the use of that term throughout the Rulebook.

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, this proposal provides NOM Market Makers with the opportunity to continue to avail themselves of functionality that currently on BOX, NYSE Arca, and MIAX

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<sup>27</sup> See Options 3, Section 7(a)(9).

Emerald.<sup>28</sup>

The proposal does not impose a burden on inter-market competition, because Participants may choose to become market makers on a number of other options exchanges, which may have similar but not identical features. The Post-Only Quote Configuration functionality will continue to benefit downstream counterparties, both within and away from the Exchange, who may interact with NOM's non-displayed order book and thereby interact with order flow that is priced better than the NBBO.

The proposal does not impose a burden on intra-market competition. Today, all Participants may submit Post-Only Orders and receive similar treatment for their orders. Offering NOM Market Makers the ability to configure their quotes as Post-Only will allow all market participants on NOM to enter interest with a Post-Only designation.

The proposed risk protection allows NOM Market Makers the ability to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on NOM's order book upon entry, thereby protecting investors and the general public as NOM Market Makers transact a large number of orders on the Exchange and bring liquidity to the marketplace. NOM Market Makers are required to add liquidity on NOM and, in turn, are rewarded with lower pricing<sup>29</sup> and enhanced allocations.<sup>30</sup> Specifically, the risk protection would permit NOM Market Makers to add liquidity only and avoid removing non-displayed interest on the order book thereby maximizing the benefit of their quoting to bring liquidity to NOM by

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<sup>28</sup> See notes 10-12 above.

<sup>29</sup> See Options 7, Section 2.

<sup>30</sup> See Options 3, Section 10.

allowing NOM Market Makers to provide as much liquidity as possible. Unlike other market participants, NOM Market Makers have certain obligations on the market. NOM Market Makers are required to provide continuous two-sided quotes on a daily basis<sup>31</sup> and are subject to various obligations associated with providing liquidity on the market.<sup>32</sup> NOM Market Makers are the sole liquidity providers on the Exchange and, therefore, are offered certain quote risk protections noted within Options 3, Section 15 to allow them to manage their risk more effectively.<sup>33</sup> The proposed Post-Only Quote Configuration is another risk protection afforded to NOM Market Makers to assist them in managing their risk while continuing to comply with their obligations.

Options 3, Sections 1 and 7

The Exchange proposal to correct certain minor technical amendments within Options 1, Section 1, “Definitions,” and Options 3, Section 7, “Types of Orders and Order and Quote Protocols” does not impose an undue burden on competition as updating the citation within Options 3, Section 7(a)(9) which describes the Post-Only Order, amending the term “Nasdaq Options Market Maker” or “Options Market Maker” within Options 1, Section 1, “Definitions,” and replacing the term “NOM Market Makers” within Options 3, Section 7(e)(1)(D) which describes the “Quote Using Orders” or “QUO” quote protocol with “Market Makers” as proposed to be defined within Options 3, Section 1(a)(27) will bring greater clarity to these rules. The Exchange believes

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<sup>31</sup> See NOM Options 2, Section 5(d).

<sup>32</sup> See NOM Options 2, Section 4.

<sup>33</sup> Options 3, Section 15(c) describes the Anti-Internalization and Quotation Adjustments Protections that are available today to NOM Market Makers.

utilizing “Market Makers” in addition to “Nasdaq Options Market Maker” and “Options Market Maker” will conform the use of that term throughout the Rulebook.

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>34</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>35</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 should be approved or disapproved.

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<sup>34</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>35</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.

#### 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-2021-094 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-2021-094. 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-2021-094 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>36</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>36</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

*New text is underlined; deleted text is in brackets.*

**The Nasdaq Stock Market LLC Rules**

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**Options Rules****Options 1 General Provisions****Section 1. Definitions**

(a) With respect to these NOM Rules, the following terms shall have the meanings specified in this Rule. A term defined elsewhere in the Rules of the Exchange shall have the same meaning with respect to this Rule, unless otherwise defined below.

\* \* \* \* \*

(27) The term “Nasdaq Options Market Maker” or “Options Market Maker” or “Market Maker” mean an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Options 2 of these Rules.

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**Options 3 Options Trading Rules**

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**Section 7. Types of Orders and Order and Quote Protocols**

The Exchange may determine to make certain order types and time-in-force, respectively, available on a class or System basis.

(a) The term "Order" shall mean a single order submitted to the System by a Participant that is eligible to submit such orders. The term "Order Type" shall mean the unique processing prescribed for designated orders that are eligible for entry into the System, and shall include:

\* \* \* \* \*

(9) "Post-Only Order" is an order that will not remove liquidity from the System. Post-Only Orders are to be ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) if a Post-Only Order would lock or cross an order on the System, the order will be re-priced to \$.01 below the current low offer (for bids) or above the



current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation of another market center, the order will be handled pursuant to Options 3, Section 5(b) – (d)[22(b)(3)(C)]. Participants may choose to have their Post-Only Orders returned whenever the order would lock or cross the NBBO or be placed on the book at a price other than its limit price. Post-Only Orders received prior to the opening will be eligible for execution during the opening cross and will be processed as per Options 3, Section 8. Post-Only Orders received after market close will be rejected. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel. (e) Entry and Display of Orders and Quotes. Participants may enter orders and quotes into the System as specified below.

\* \* \* \* \*

(e) Entry and Display of Orders and Quotes. Participants may enter orders and quotes into the System as specified below.

(1) The Exchange offers Participants the following protocols for entering orders and quotes respectively:

\* \* \* \* \*

(D) “**Quote Using Orders**” or “**QUO**” is an interface that allows [NOM ]Market Makers to connect, send, and receive messages related to single-sided orders to and from the Exchange. Order Features include the following: (1) options symbol directory messages (e.g., underlying); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications. Orders submitted by [NOM ]Market Makers over this interface are treated as quotes. Market Makers may only enter interest into QUO in their assigned options series.

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## Section 15. Risk Protections

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(c) The following are quote risk protections on NOM:

\* \* \* \* \*

(G) The Exchange will require NOM Market Makers to utilize either the Percentage-Based Threshold or the Volume-Based Threshold. The Multi-Trigger Threshold is optional.

**(3) Post-Only Quoting Protection.** NOM Market Makers may elect to configure their SQF or QUO protocols to prevent their quotes from removing liquidity (“Post-Only Quote Configuration”). A Post-Only Quote Configuration would re-price or cancel a NOM Market Maker’s quote that would otherwise lock or cross any resting order or quote on the NOM order book upon entry. When configured for re-price, quotes would be re-priced to \$.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers). Notwithstanding the aforementioned, as is the case today, if a quote with a Post-Only Quote Configuration would not lock or cross an order on the System but would lock or cross the NBBO, the quote will be handled pursuant to Options 3, Section 4(b)(6). When configured for cancel, Participants will have their quotes returned whenever the quote would lock or cross the NBBO or be placed on the book at a price other than its limit price. This functionality shall not apply during an Opening Process.

\* \* \* \* \*