

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 26

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

File No. * SR 2021 - * 101

Amendment No. (req. for Amendments *)

Filing by The Nasdaq Stock Market LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
--------------------------------	---	-------------------------------------

Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
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 *).

Proposal to amend Rule 4754 related to certain order handling in the LULD closing cross

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 * Sun Last Name * Kim

Title * Associate General Counsel

E-mail * sun.kim@nasdaq.com

Telephone * (646) 420-7816 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 12/17/2021


(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: 2021.12.17 13:13:05 -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 EDFS website.

Form 19b-4 Information *

Add Remove View

SR-NASDAQ-2021-101 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 *

Add Remove View

SR-NASDAQ-2021-101 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 *

Add Remove View

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

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

Add Remove View

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

Add Remove View

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

Add Remove View

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

Exhibit 5 - Proposed Rule Text

Add Remove View

SR-NASDAQ-2021-101 Exhibit 5.docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend its rule related to certain order handling in the Limit-Up Limit-Down (“LULD”) closing cross.

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 (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:

Sun Kim
Associate General Counsel
Nasdaq, Inc.
646-420-7816

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The purpose of the proposed rule change is to amend Equity 4, Rule 4754³ related to certain order handling in the LULD closing cross (“LULD Closing Cross”).⁴ On May 28, 2021, the Commission approved the Exchange’s proposal to make certain changes to the Exchange’s LULD Closing Cross, including the timing of the LULD Closing Cross, the process for determining the LULD Closing Cross price, establishing price protections for the LULD Closing Cross, the handling of on-close orders, and the imbalance information disseminated for the LULD Closing Cross.⁵ The Exchange has not yet implemented the proposed LULD Closing Cross changes in SR-NASDAQ-2021-009, and recently filed to delay implementation in order to allow the Exchange additional time to test and implement these functionalities.⁶

During the testing conducted to date, Nasdaq has identified some changes that it wishes to make to the approved rule governing the LULD Closing Cross in Rule 4754(b)(6). Accordingly, the Exchange is submitting this proposal to amend the rule text

³ All Rule 4000 series referenced in this filing are within Equity 4.

⁴ The LULD Closing Cross is the Exchange’s auction process for executing closing trades in Nasdaq-listed securities when a Trading Pause pursuant to Rule 4120(a)(12) exists at or after 3:50 p.m. and before 4:00 p.m. ET. See Rule 4754(b)(6).

⁵ See Securities Exchange Act Release No. 92068 (May 28, 2021), 86 FR 29864 (June 3, 2021) (SR-NASDAQ-2021-009) (“Approval Order”).

⁶ See Securities Exchange Act Release No. 93250 (October 4, 2021), 86 FR 56307 (October 8, 2021) (SR-NASDAQ-2021-077).

prior to implementation. Specifically, the Exchange is proposing to provide that in the context of the LULD Closing Cross, Limit on Close (“LOC”) orders⁷ entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET (“late LOC orders”) will use the same reference prices for re-pricing as the reference prices used during the standard Nasdaq Closing Cross.⁸

Today, Rule 4702(b)(12) describes the treatment of late LOC orders during the standard Closing Cross. The Rule provides that late LOC orders may be entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET provided that there is a First Reference Price⁹ (i.e., the Current Reference Price¹⁰ disseminated at 3:50 p.m. ET) or a

⁷ A “Limit On Close Order” or “LOC Order” is an Order Type entered with a price that may be executed only in the Nasdaq Closing Cross, and only if the price determined by the Nasdaq Closing Cross is equal to or better than the price at which the LOC Order was entered. See Rule 4702(b)(12).

⁸ “Nasdaq Closing Cross” shall mean the process for determining the price at which orders shall be executed at the close and for executing those orders. See Rule 4754(a)(6).

⁹ “First Reference Price” shall mean the Current Reference Price in the Early Order Imbalance Indicator (“EOII”) disseminated at 3:50 p.m. ET, or 10 minutes prior to the early closing time on a day when Nasdaq closes early. See Rule 4754(a)(9).

¹⁰ “Current Reference Price” means the following: (i) the single price that is at or within the current Nasdaq Market Center best bid and offer at which the maximum number of shares of MOC, LOC, and IO orders can be paired; (ii) if more than one price exists under subparagraph (i), the Current Reference Price shall mean the price that minimizes any Imbalance; (iii) if more than one price exists under subparagraph (ii), the Current Reference Price shall mean the entered price at which shares will remain unexecuted in the cross; or (iv) if more than one price exists under subparagraph (iii), the Current Reference Price shall mean the price that minimizes the distance from the bid-ask midpoint of the inside quotation prevailing at the time of the order imbalance indicator dissemination. See Rule 4754(a)(7)(A).

Second Reference Price¹¹ (i.e., the Current Reference Price disseminated at 3:55 p.m. ET). Between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET, LOC Orders can only be cancelled and/or modified if the Participant requests that Nasdaq correct a legitimate error in the Order (e.g., Side, Size, Symbol, or Price, or duplication of an Order). LOC Orders cannot be cancelled or modified at or after 3:58 p.m.

A late LOC order will be accepted at its limit price, unless its limit price is higher (lower) than the higher (lower) of the First Reference Price and the Second Reference Price for a late LOC order to buy (sell), in which case the late LOC order will be handled consistent with the Participant's instruction that the late LOC order is to be: (1) rejected; or (2) re-priced to the higher (lower) of the First Reference Price and the Second Reference Price.¹²

As stated in SR-NASDAQ-2021-009, the intent of the proposed rule change was to align the LULD Closing Cross process as closely as possible to the standard Closing Cross process, including the handling of various closing cross order types like LOC orders (and their subset, late LOC orders). As such, the Exchange amended Rule 4754(b)(6)(F)(ii) to provide that MOC, LOC, and IO orders may be entered, modified,

¹¹ "Second Reference Price" shall mean the Current Reference Price in the Order Imbalance Indicator ("NOII") disseminated at 3:55 p.m. ET, or five minutes prior to the early closing time on a day when Nasdaq closes early. See Rule 4754(a)(11).

¹² Furthermore, if either the First Reference Price or the Second Reference Price is not at a permissible minimum increment, the First Reference Price or the Second Reference Price, as applicable, will be rounded (i) to the nearest permitted minimum increment (with midpoint prices being rounded up) if there is no imbalance, (ii) up if there is a buy imbalance, or (iii) down if there is a sell imbalance. The default configuration for Participants that do not specify otherwise will be to have such late LOC orders re-priced rather than rejected. See Rule 4702(b)(12).

and cancelled pursuant to Rules 4702(b)(11), 4702(b)(12), and 4702(b)(13) to allow these order types to participate in the LULD Closing Cross in the same way as a standard Closing Cross. This includes accepting late LOC orders during the LULD Closing Cross and re-pricing (in certain cases) these orders to the more aggressive of First Reference Price or Second Reference Price in the same way as a standard Closing Cross.

In the context of the standard Closing Cross, the First Reference Price and the Second Reference Price, at the time of their dissemination at 3:50 p.m. ET and 3:55 p.m. ET, respectively, each represent the current price, bounded by the continuous market (i.e., the Nasdaq best bid and offer), at which paired on-close shares are maximized (with certain tie-breakers if multiple prices meet this criterion).¹³ SR-NASDAQ-2021-009, however, defined the 3:50 p.m. ET reference price and 3:55 p.m. ET reference price in the context of the LULD Closing Cross as the price at which the LULD Closing Cross would execute should the cross conclude at that time, and further indicated that the reference price would be bounded by the benchmark prices.¹⁴ As described in SR-NASDAQ-2021-009, the benchmark prices represent the price range within which the LULD Closing Cross price must fall and are calculated off the last disseminated LULD Auction Collar or the LULD Band that triggered the Trading Pause, as further described in Rule 4754(b)(6)(E). As a result of the foregoing, in cases where a Trading Pause exists at or prior to 3:50 p.m. ET, the 3:50 and 3:55 p.m. ET reference prices in the LULD Closing Cross would not be bounded by continuous market (i.e., the Nasdaq best bid and offer) like the 3:50 and 3:55 p.m. ET reference prices in the standard Closing

¹³ See definition of Current Reference Price in Rule 4754(a)(7)(A).

¹⁴ See Approval Order at 29866.

Cross as there was no continuous market in the halted security during those times, and those reference prices in the LULD Closing Cross would instead be bounded by the benchmark prices described above. Similarly, if a Trading Pause is triggered after 3:50 p.m. ET but before 3:55 p.m. ET, the 3:50 reference price would reflect and be bounded by the Nasdaq best bid and offer at the time of dissemination like the 3:50 reference price used in a standard Closing Cross whereas the 3:55 reference price would not. Lastly, if a Trading Pause is triggered after 3:55 p.m. ET, both the 3:50 and 3:55 reference prices would reflect and be bounded by the Nasdaq best bid and offer at the time of dissemination like the reference prices used in a standard Closing Cross. The consequence of using the LULD Closing Cross-derived reference price and not the standard Closing Cross-derived reference price may result in late LOC orders being accepted and potentially repriced to 3:50 or 3:55 p.m. ET reference prices that are not reflective of the continuous market at the time of their dissemination (i.e., reference prices disseminated at a time when trading has been paused and that are not bounded by the Nasdaq best bid and offer), and which are bounded by benchmark prices that are calculated off the last disseminated LULD Auction Collar or the LULD Band that triggered the Trading Pause. The Exchange believes that this is inconsistent with market participant expectations of how late LOC orders would be normally repriced during a closing cross process (i.e., repriced to reference prices disseminated at a time when trading has been paused and that are not bounded by the Nasdaq best bid and offer), and therefore proposes to amend late LOC order handling so that its LULD Closing Cross and standard Closing Cross processes are more consistent.

Accordingly, the Exchange proposes to state in its rules that it will only accept and if needed, re-price a late LOC order in the LULD Closing Cross if a standard Closing Cross-derived reference price (i.e., First Reference Price or Second Reference Price) is available. In particular, the Exchange proposes to add the following language at the end of Rule 4754(b)(6)(F)(ii):

With respect to LOC orders entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET (hereinafter, “late LOC orders”), the System will handle such orders in the LULD Closing Cross as follows:

(a) If the security entered a Trading Pause prior and up to 3:50 p.m., the System will not accept late LOC orders.¹⁵

(b) If the security entered a Trading Pause after 3:50 p.m. and up to 3:55 p.m., the System will accept late LOC orders, provided that there is a First Reference Price. Such orders may then be subject to re-pricing in accordance with Rule 4702(b)(12) or rejected, in either case consistent with the Participant’s instructions.¹⁶

(c) If the security entered a Trading Pause after 3:55 p.m., the System will accept late LOC orders, provided that there is a First Reference Price or a Second Reference Price. Such orders may then be subject to re-pricing in accordance with Rule 4702(b)(12) or rejected, in either case consistent with the Participant’s instructions.¹⁷

¹⁵ The System will not accept late LOC orders in this scenario because if a security entered a Trading Pause prior and up to 3:50 p.m. ET, there would not be a First Reference Price or a Second Reference Price for the standard Closing Cross.

¹⁶ The System will accept late LOC orders provided there is a First Reference Price because in this scenario, the security entered a Trading Pause after 3:50 p.m. ET (but before 3:55 p.m. ET) so the First Reference Price would be disseminated at 3:50 p.m. ET for the standard Closing Cross but the Second Reference Price for the standard Closing Cross would not be disseminated at 3:55 p.m. ET. The option to have the Participant’s aggressively priced late LOC order rejected instead of re-priced is consistent with the standard Closing Cross. See Rule 4702(b)(12).

¹⁷ The System will accept late LOC orders provided there is a First Reference Price or Second Reference Price because in this scenario, the security entered a Trading

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁹ 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 because it would amend the LULD Closing Cross process with respect to certain LOC order handling as approved in SR-NASDAQ-2021-009 in order to further align the LULD Closing Cross with the standard Nasdaq Closing Cross. Specifically, the Exchange is proposing to provide in Rule 4754(b)(6)(F)(ii) that it will only accept and if needed, re-price a late LOC order in the LULD Closing Cross if a First Reference Price or Second Reference Price for the standard Closing Cross is available, identical to the handling of late LOC orders for the standard Closing Cross. As discussed above, in the context of the standard Closing Cross, the First Reference Price and the Second Reference Price, at the time of their dissemination at 3:50 p.m. ET and 3:55 p.m. ET, respectively, each represent the current price, bounded by the continuous market (i.e., the Nasdaq best and offer), at which paired on-close shares are maximized. SR-NASDAQ-2021-009, however, defined the 3:50 p.m. ET reference price and 3:55 p.m. ET reference price in the context of the LULD Closing Cross as the price, bounded by the benchmark prices, at

Pause after 3:55 p.m. ET so both the First Reference Price and the Second Reference Price would be disseminated for the standard Closing Cross.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

which the LULD Closing Cross would execute should the cross conclude at that time. Because the benchmark prices are based on the LULD Auction Collar or LULD Band instead of the continuous market, the consequence of using the LULD Closing Cross-derived reference price and not the standard Closing Cross-derived reference price may result in late LOC orders being accepted and potentially repriced to 3:50 or 3:55 reference prices that are not reflective of the continuous market at the time of their dissemination (i.e., reference prices disseminated at a time when trading has been paused and that are not bounded by the Nasdaq best bid and offer), and which are bounded by benchmark prices that are calculated off the last disseminated LULD Auction Collar or the LULD Band that triggered the Trading Pause. The Exchange believes that this is an undesirable outcome and contrary to market participant expectations of how a late LOC order would normally be repriced by the Exchange. The Exchange believes that the proposed changes will align the LULD Closing Cross with the standard Closing Cross more closely, thereby promoting a more consistent experience for market participants, and reducing any potential confusion regarding Nasdaq's closing processes.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed changes would allow the Exchange to make certain changes to the Exchange's rules and functionality related to certain LOC order handling in the LULD Closing Cross in a manner consistent with the current standard Closing Cross. Ultimately, the Exchange believes that the proposed changes will render the LULD Closing Cross more attractive to market participants by providing a more consistent experience for Nasdaq's closing processes.

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

The Exchange does not consent to an extension of the time period for Commission action.

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

Not applicable.

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

Not applicable.

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

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.
5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2021-101)

December __, 2021

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change to Amend Rule 4754 Related to Certain Order Handling in the LULD Closing Cross

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on December 17, 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 its rule related to certain order handling in the Limit-Up Limit-Down (“LULD”) closing cross.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

The purpose of the proposed rule change is to amend Equity 4, Rule 4754³ related to certain order handling in the LULD closing cross (“LULD Closing Cross”).⁴ On May 28, 2021, the Commission approved the Exchange’s proposal to make certain changes to the Exchange’s LULD Closing Cross, including the timing of the LULD Closing Cross, the process for determining the LULD Closing Cross price, establishing price protections for the LULD Closing Cross, the handling of on-close orders, and the imbalance information disseminated for the LULD Closing Cross.⁵ The Exchange has not yet implemented the proposed LULD Closing Cross changes in SR-NASDAQ-2021-009, and

³ All Rule 4000 series referenced in this filing are within Equity 4.

⁴ The LULD Closing Cross is the Exchange’s auction process for executing closing trades in Nasdaq-listed securities when a Trading Pause pursuant to Rule 4120(a)(12) exists at or after 3:50 p.m. and before 4:00 p.m. ET. See Rule 4754(b)(6).

⁵ See Securities Exchange Act Release No. 92068 (May 28, 2021), 86 FR 29864 (June 3, 2021) (SR-NASDAQ-2021-009) (“Approval Order”).

recently filed to delay implementation in order to allow the Exchange additional time to test and implement these functionalities.⁶

During the testing conducted to date, Nasdaq has identified some changes that it wishes to make to the approved rule governing the LULD Closing Cross in Rule 4754(b)(6). Accordingly, the Exchange is submitting this proposal to amend the rule text prior to implementation. Specifically, the Exchange is proposing to provide that in the context of the LULD Closing Cross, Limit on Close (“LOC”) orders⁷ entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET (“late LOC orders”) will use the same reference prices for re-pricing as the reference prices used during the standard Nasdaq Closing Cross.⁸

Today, Rule 4702(b)(12) describes the treatment of late LOC orders during the standard Closing Cross. The Rule provides that late LOC orders may be entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET provided that there is a First Reference Price⁹ (i.e., the Current Reference Price¹⁰ disseminated at 3:50 p.m. ET) or a

⁶ See Securities Exchange Act Release No. 93250 (October 4, 2021), 86 FR 56307 (October 8, 2021) (SR-NASDAQ-2021-077).

⁷ A “Limit On Close Order” or “LOC Order” is an Order Type entered with a price that may be executed only in the Nasdaq Closing Cross, and only if the price determined by the Nasdaq Closing Cross is equal to or better than the price at which the LOC Order was entered. See Rule 4702(b)(12).

⁸ “Nasdaq Closing Cross” shall mean the process for determining the price at which orders shall be executed at the close and for executing those orders. See Rule 4754(a)(6).

⁹ “First Reference Price” shall mean the Current Reference Price in the Early Order Imbalance Indicator (“EOII”) disseminated at 3:50 p.m. ET, or 10 minutes prior to the early closing time on a day when Nasdaq closes early. See Rule 4754(a)(9).

Second Reference Price¹¹ (i.e., the Current Reference Price disseminated at 3:55 p.m. ET). Between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET, LOC Orders can only be cancelled and/or modified if the Participant requests that Nasdaq correct a legitimate error in the Order (e.g., Side, Size, Symbol, or Price, or duplication of an Order). LOC Orders cannot be cancelled or modified at or after 3:58 p.m.

A late LOC order will be accepted at its limit price, unless its limit price is higher (lower) than the higher (lower) of the First Reference Price and the Second Reference Price for a late LOC order to buy (sell), in which case the late LOC order will be handled consistent with the Participant's instruction that the late LOC order is to be: (1) rejected; or (2) re-priced to the higher (lower) of the First Reference Price and the Second Reference Price.¹²

¹⁰ "Current Reference Price" means the following: (i) the single price that is at or within the current Nasdaq Market Center best bid and offer at which the maximum number of shares of MOC, LOC, and IO orders can be paired; (ii) if more than one price exists under subparagraph (i), the Current Reference Price shall mean the price that minimizes any Imbalance; (iii) if more than one price exists under subparagraph (ii), the Current Reference Price shall mean the entered price at which shares will remain unexecuted in the cross; or (iv) if more than one price exists under subparagraph (iii), the Current Reference Price shall mean the price that minimizes the distance from the bid-ask midpoint of the inside quotation prevailing at the time of the order imbalance indicator dissemination. See Rule 4754(a)(7)(A).

¹¹ "Second Reference Price" shall mean the Current Reference Price in the Order Imbalance Indicator ("NOII") disseminated at 3:55 p.m. ET, or five minutes prior to the early closing time on a day when Nasdaq closes early. See Rule 4754(a)(11).

¹² Furthermore, if either the First Reference Price or the Second Reference Price is not at a permissible minimum increment, the First Reference Price or the Second Reference Price, as applicable, will be rounded (i) to the nearest permitted minimum increment (with midpoint prices being rounded up) if there is no imbalance, (ii) up if there is a buy imbalance, or (iii) down if there is a sell imbalance. The default configuration for Participants that do not specify

As stated in SR-NASDAQ-2021-009, the intent of the proposed rule change was to align the LULD Closing Cross process as closely as possible to the standard Closing Cross process, including the handling of various closing cross order types like LOC orders (and their subset, late LOC orders). As such, the Exchange amended Rule 4754(b)(6)(F)(ii) to provide that MOC, LOC, and IO orders may be entered, modified, and cancelled pursuant to Rules 4702(b)(11), 4702(b)(12), and 4702(b)(13) to allow these order types to participate in the LULD Closing Cross in the same way as a standard Closing Cross. This includes accepting late LOC orders during the LULD Closing Cross and re-pricing (in certain cases) these orders to the more aggressive of First Reference Price or Second Reference Price in the same way as a standard Closing Cross.

In the context of the standard Closing Cross, the First Reference Price and the Second Reference Price, at the time of their dissemination at 3:50 p.m. ET and 3:55 p.m. ET, respectively, each represent the current price, bounded by the continuous market (i.e., the Nasdaq best bid and offer), at which paired on-close shares are maximized (with certain tie-breakers if multiple prices meet this criterion).¹³ SR-NASDAQ-2021-009, however, defined the 3:50 p.m. ET reference price and 3:55 p.m. ET reference price in the context of the LULD Closing Cross as the price at which the LULD Closing Cross would execute should the cross conclude at that time, and further indicated that the reference price would be bounded by the benchmark prices.¹⁴ As described in SR-NASDAQ-2021-009, the benchmark prices represent the price range within which the

otherwise will be to have such late LOC orders re-priced rather than rejected. See Rule 4702(b)(12).

¹³ See definition of Current Reference Price in Rule 4754(a)(7)(A).

¹⁴ See Approval Order at 29866.

LULD Closing Cross price must fall and are calculated off the last disseminated LULD Auction Collar or the LULD Band that triggered the Trading Pause, as further described in Rule 4754(b)(6)(E). As a result of the foregoing, in cases where a Trading Pause exists at or prior to 3:50 p.m. ET, the 3:50 and 3:55 p.m. ET reference prices in the LULD Closing Cross would not be bounded by continuous market (i.e., the Nasdaq best bid and offer) like the 3:50 and 3:55 p.m. ET reference prices in the standard Closing Cross as there was no continuous market in the halted security during those times, and those reference prices in the LULD Closing Cross would instead be bounded by the benchmark prices described above. Similarly, if a Trading Pause is triggered after 3:50 p.m. ET but before 3:55 p.m. ET, the 3:50 reference price would reflect and be bounded by the Nasdaq best bid and offer at the time of dissemination like the 3:50 reference price used in a standard Closing Cross whereas the 3:55 reference price would not. Lastly, if a Trading Pause is triggered after 3:55 p.m. ET, both the 3:50 and 3:55 reference prices would reflect and be bounded by the Nasdaq best bid and offer at the time of dissemination like the reference prices used in a standard Closing Cross. The consequence of using the LULD Closing Cross-derived reference price and not the standard Closing Cross-derived reference price may result in late LOC orders being accepted and potentially repriced to 3:50 or 3:55 p.m. ET reference prices that are not reflective of the continuous market at the time of their dissemination (i.e., reference prices disseminated at a time when trading has been paused and that are not bounded by the Nasdaq best bid and offer), and which are bounded by benchmark prices that are calculated off the last disseminated LULD Auction Collar or the LULD Band that triggered the Trading Pause. The Exchange believes that this is inconsistent with market

participant expectations of how late LOC orders would be normally repriced during a closing cross process (i.e., repriced to reference prices disseminated at a time when trading has been paused and that are not bounded by the Nasdaq best bid and offer), and therefore proposes to amend late LOC order handling so that its LULD Closing Cross and standard Closing Cross processes are more consistent.

Accordingly, the Exchange proposes to state in its rules that it will only accept and if needed, re-price a late LOC order in the LULD Closing Cross if a standard Closing Cross-derived reference price (i.e., First Reference Price or Second Reference Price) is available. In particular, the Exchange proposes to add the following language at the end of Rule 4754(b)(6)(F)(ii):

With respect to LOC orders entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET (hereinafter, “late LOC orders”), the System will handle such orders in the LULD Closing Cross as follows:

(a) If the security entered a Trading Pause prior and up to 3:50 p.m., the System will not accept late LOC orders.¹⁵

(b) If the security entered a Trading Pause after 3:50 p.m. and up to 3:55 p.m., the System will accept late LOC orders, provided that there is a First Reference Price. Such orders may then be subject to re-pricing in accordance with Rule 4702(b)(12) or rejected, in either case consistent with the Participant’s instructions.¹⁶

¹⁵ The System will not accept late LOC orders in this scenario because if a security entered a Trading Pause prior and up to 3:50 p.m. ET, there would not be a First Reference Price or a Second Reference Price for the standard Closing Cross.

¹⁶ The System will accept late LOC orders provided there is a First Reference Price because in this scenario, the security entered a Trading Pause after 3:50 p.m. ET (but before 3:55 p.m. ET) so the First Reference Price would be disseminated at 3:50 p.m. ET for the standard Closing Cross but the Second Reference Price for the standard Closing Cross would not be disseminated at 3:55 p.m. ET. The option to have the Participant’s aggressively priced late LOC order rejected instead of re-priced is consistent with the standard Closing Cross. See Rule 4702(b)(12).

(c) If the security entered a Trading Pause after 3:55 p.m., the System will accept late LOC orders, provided that there is a First Reference Price or a Second Reference Price. Such orders may then be subject to re-pricing in accordance with Rule 4702(b)(12) or rejected, in either case consistent with the Participant's instructions.¹⁷

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁹ 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 because it would amend the LULD Closing Cross process with respect to certain LOC order handling as approved in SR-NASDAQ-2021-009 in order to further align the LULD Closing Cross with the standard Nasdaq Closing Cross. Specifically, the Exchange is proposing to provide in Rule 4754(b)(6)(F)(ii) that it will only accept and if needed, re-price a late LOC order in the LULD Closing Cross if a First Reference Price or Second Reference Price for the standard Closing Cross is available, identical to the handling of late LOC orders for the standard Closing Cross. As discussed above, in the context of the standard Closing Cross, the First Reference Price and the Second Reference Price, at the time of their dissemination at 3:50 p.m. ET and 3:55 p.m. ET, respectively, each represent the current price, bounded by the continuous market (i.e., the Nasdaq best and

¹⁷ The System will accept late LOC orders provided there is a First Reference Price or Second Reference Price because in this scenario, the security entered a Trading Pause after 3:55 p.m. ET so both the First Reference Price and the Second Reference Price would be disseminated for the standard Closing Cross.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

offer), at which paired on-close shares are maximized. SR-NASDAQ-2021-009, however, defined the 3:50 p.m. ET reference price and 3:55 p.m. ET reference price in the context of the LULD Closing Cross as the price, bounded by the benchmark prices, at which the LULD Closing Cross would execute should the cross conclude at that time. Because the benchmark prices are based on the LULD Auction Collar or LULD Band instead of the continuous market, the consequence of using the LULD Closing Cross-derived reference price and not the standard Closing Cross-derived reference price may result in late LOC orders being accepted and potentially repriced to 3:50 or 3:55 reference prices that are not reflective of the continuous market at the time of their dissemination (i.e., reference prices disseminated at a time when trading has been paused and that are not bounded by the Nasdaq best bid and offer), and which are bounded by benchmark prices that are calculated off the last disseminated LULD Auction Collar or the LULD Band that triggered the Trading Pause. The Exchange believes that this is an undesirable outcome and contrary to market participant expectations of how a late LOC order would normally be repriced by the Exchange. The Exchange believes that the proposed changes will align the LULD Closing Cross with the standard Closing Cross more closely, thereby promoting a more consistent experience for market participants, and reducing any potential confusion regarding Nasdaq's closing processes.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed changes would allow the Exchange to make certain changes to the Exchange's rules and functionality related to certain LOC order handling in the LULD Closing Cross in a manner consistent with the current standard Closing Cross.

Ultimately, the Exchange believes that the proposed changes will render the LULD Closing Cross more attractive to market participants by providing a more consistent experience for Nasdaq's closing processes.

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

No written comments were either solicited or received.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2021-101 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-2021-101. 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-2021-101 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.²⁰

J. Matthew DeLesDernier
Assistant Secretary

²⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

The Nasdaq Stock Market LLC Rules

* * * * *

Equity 4 Equity Trading Rules

* * * * *

4754. Nasdaq Closing Cross

(a) No change.

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

(1) – (5) No change.

(6) **LULD Closing Cross Following Limit-Up-Limit-Down Trading Pause.** When a Trading Pause pursuant to Rule 4120(a)(12) exists at or after 3:50 p.m. and before 4:00 p.m., the stock shall resume trading via a modified Nasdaq Closing Cross ("LULD Closing Cross"). The LULD Closing Cross shall operate as defined in this rule with the following exceptions:

(A) – (E) No change.

(F) Orders eligible to participate:

(i) No change.

(ii) During the pause and prior to 4:00 pm, new orders may be entered, modified, and cancelled and may participate in the LULD Closing Cross. MOC, LOC and IO orders may be entered, modified, and cancelled pursuant to Rules 4702(b)(11), 4702(b)(12), and 4702(b)(13). With respect to LOC orders entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET (hereinafter, "late LOC orders"), the System will handle such orders in the LULD Closing Cross as follows:

(a) If the security entered a Trading Pause prior and up to 3:50 p.m., the System will not accept late LOC orders.

(b) If the security entered a Trading Pause after 3:50 p.m. and up to 3:55 p.m., the System will accept late LOC orders, provided that there is a First Reference Price. Such orders may then be subject to re-pricing in

accordance with Rule 4702(b)(12) or rejected, in either case consistent with the Participant's instructions.

(c) If the security entered a Trading Pause after 3:55 p.m., the System will accept late LOC orders, provided that there is a First Reference Price or a Second Reference Price. Such orders may then be subject to re-pricing in accordance with Rule 4702(b)(12) or rejected, in either case consistent with the Participant's instructions.

* * * * *