

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

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87443; File No. SR-NYSEArca-2019-71]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Regarding the Applicability and Functionality of Certain Order Types on the Exchange

November 1, 2019.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on October 22, 2019, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to clarify the applicability and functionality of certain order types on the Exchange. The proposed change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to amend Rule 6.62–O (Certain Types of Orders Defined) to clarify the applicability and functionality of certain order types. Specifically, the Exchange proposes to amend the definitions of Contingency Orders, Working Orders, Stop Orders, Stop Limit Orders and All-or None (“AON”) Orders, as set forth in Rule 6.62–O(d). The Exchange is not proposing to change or alter any obligations, rights, policies or practices enumerated within its rules. Rather, this proposal is designed to reduce any potential investor confusion as to the functionality and applicability of certain order types presently available on the Exchange.

Proposed Changes to Order Type Definitions

Rule 6.62–O (the “Rule”) contains certain definitions of options order types available on the Exchange. Paragraph (d) of the Rule defines Contingency Orders or Working Orders as orders that are “contingent upon a condition being satisfied or an order with a conditional or undisplayed price and/or size.” Although not explicitly stated in the current rule, such Contingency Orders are maintained in the Working Order File of the Consolidated Book until they are eligible for execution and/or display. Because such information would add clarity and transparency to the handling of such orders, the Exchange proposes to add it to the Rule.⁴ The Exchange also proposes to amend the definitions of Stop Orders, Stop Limit Orders and AON Orders, which are Contingency Orders/Working Orders.

Rule 6.62–O(d)(1)–(2) Stop Orders and Stop Limit Orders. A Stop Order is an order that becomes a Market Order when the market for a particular option contract reaches a specified price.⁵ A Stop Limit Order is an order that becomes a Limit Order when the market for a particular option contract reaches a specified price.⁶ Stop Orders and Stop Limit Orders (collectively, “Stop Orders” herein unless otherwise specified) track the price of an option and are generally used to limit losses as

prices move up, in the case of buy orders, or down in the case of sell orders. In each case, the “triggering event,” which converts the order type (to a Market Order or Limit Order, as applicable) occurs once the option trades or is (locally) quoted at, or above for a buy (below for a sell), the specified stop price.⁷ Thus, Stop Orders to buy (sell) may be triggered as the price of an option rises (falls). The current rule provides that a Stop Order to buy (sell) will be rejected if, at the time of arrival, the stop price is below (above) the bid (offer).⁸ Regarding priority, Stop Orders (including Stop Limit Orders) are not displayed, have no standing in any Order Process in the Consolidated Book.⁹

The Exchange proposes to modify the description of Stop Orders to enhance the clarity of the rule text, including by streamlining some of the existing text and adding new text, as appropriate, and deleting existing text to correct an inaccuracy regarding current functionality. First, the Exchange proposes to streamline the description of the order types as follows. The Exchange proposes to revise the first sentence describing each order type (*i.e.*, Rule 6.62–O(d)(1),(2)) to state that the order type converts to a Market or Limit Order, respectively—or “is triggered”—when the market for a particular option contract reaches a specified price.¹⁰ The Exchange also proposes to modify Rule 6.62–O(d)(1),(2) to combine into one sentence the description of both buy and sell Stop Orders without modifying current functionality. The current rule addresses buy and sell Stop Orders in two sentences and the Exchange thinks the proposed change would streamline the rule and make it easier to navigate. Specifically, proposed Rule 6.62–O(d)(1),(2) would provide that a Stop Order (or Stop Limit Order) “to buy (sell) is triggered” such that it becomes a Market Order or Limit Order, respectively, “when the option contract trades at a price equal to or greater (less) than the specified ‘stop’ price on the Exchange or another Market Center or when the Exchange bid (offer) is quoted at a price equal to or greater (less) than the stop price.”¹¹

⁷ See Rule 6.62–O(d)(1),(2).

⁸ See Rule 6.62–O(d)(1),(2).

⁹ See Rule 6.62–O(d)(1) (setting forth details about both Stop Orders and Stop Limit Orders, even though paragraph (d)(1) pertains solely to Stop Orders). See also Rule 6.76–O(a)(2)(D) (providing that Stop Orders within the Working Order Process are “ranked based on the specified stop price and the time of order entry”).

¹⁰ See proposed Rule 6.62–O(d)(1), (2).

¹¹ See proposed Rule 6.62–O(d)(1), (2). Consistent with this proposed change to address both buy and

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See proposed Rule 6.62–O(d). See Rule 6.76–O(b) (providing, in relevant part that, unless otherwise specified, the Exchange will display “all bids and offers at all price levels in the Display Order Process of the OX”).

⁵ See Rule 6.62–O(d)(1).

⁶ See Rule 6.62–O(d)(2).

The Exchange also proposes to address the display and standing of each type of Stop Order for which information is currently contained only in paragraph (d)(1) of Rule 6.62–O.¹² Specifically, the Exchange proposes to modify the current rules to reflect that each type of Stop Order “is not displayed and has no standing in any Order Process in the Consolidated Book, unless or until it is triggered (*i.e.*, same-side incoming interest trades or quotes at a price equal to or better than the stop price).”¹³ The Exchange also proposes to add new rule text to clarify that “[a]fter the triggering event,” a Stop Order (per Rule 6.62–O(d)(1)) becomes a new Market Order, and a Stop Limit Order (per Rule 6.62–O(d)(2)) becomes a new Limit Order, and each converted order is processed accordingly.¹⁴

Finally, the Exchange proposes to delete as inaccurate the last two sentences in the description of each type of Stop Order, which provides for the rejection of such orders to buy (sell) if entered with a stop price below the bid (or above the offer). This language is not accurate as the Exchange does not reject Stop Orders so priced, but instead would execute such orders once triggered. This proposed change would reflect current functionality and therefore add clarity and consistency to Exchange rules.¹⁵

Rule 6.62–O(d)(4) All-Or-None Orders (“AON Orders”). An AON Order is a Market or Limit Order that is to be executed in its entirety or not at all.¹⁶ The Exchange is not proposing to modify the functionality of an AON Order, but rather proposes to amplify the definition of an AON Order to clarify its current functionality. Specifically, the Exchange proposes to make clear that an AON Order that does not execute on arrival will not be displayed or routed to another Market Center (*i.e.*, AON Orders may only be executed on the Exchange) and would

sell Stop Orders and Stop Limit Orders in one sentence, the Exchange proposes to delete as unnecessary the sentences in the current definitions that describe the functionality for sell Stop Orders and sell Stop Limit Orders. *See id.* For internal consistency, the Exchange also proposes to replace reference to NYSE Arca with the “Exchange.” *See id.*

¹² *See* Rule 6.62–O(d)(1) (which provides that “Stop Orders (including Stop Limit Orders) shall not have standing in any Order Process in the Consolidated Book and shall not be displayed”).

¹³ *See* proposed Rule 6.62–O(d)(1), (2). The Exchange notes that this proposed text modifies the existing text in paragraph (d)(1) and is new text for paragraph (d)(2) of the Rule. *See id.*

¹⁴ *See* proposed Rule 6.62–O(d)(1), (2). *See also* Rule 6.62–O(a), (b) (defining Market Order and Limit Order, respectively).

¹⁵ *See* proposed Rule 6.62–O(d)(1), (2).

¹⁶ *See* Rule 6.62–O(d)(4).

have no standing in any Order Process in the Consolidated Book.¹⁷ Further, the Exchange proposes to clarify that AON Orders are not eligible to execute against incoming interest but rather may execute solely against interest resting in the Consolidated Book when sufficient size is available.¹⁸ Finally, the Exchange proposes to specify that the System monitors the Consolidated Book for AON Order execution opportunities.¹⁹ The Exchange believes the proposed changes would add transparency to the operation of this order type, without altering the current functionality.

Rule 6.76A–O: Order Execution

The Exchange proposes to make a clarifying change to Rule 6.76A–O, which details how bids and orders are executed. In particular, current Rule 6.76A–O(b)(1)(A) provides that “[a]n incoming marketable bid or offer shall be matched against orders in [sic] the Working Order Process in the order of their ranking, at the price of the displayed portion (or in the case of an All-or-None Order, or at the limit price for AON Orders [sic]), for the total amount of option contracts available at that price or for the size of the incoming bid or offer, whichever is smaller.”²⁰ The Exchange proposes to add “of Reserve Orders” to make clear that reference to “the price of the displayed portion” refers to such orders.²¹ In addition, the Exchange proposes to amend and reorganize the language regarding AON Orders to add clarity and coherence to the paragraph. Proposed Rule 6.76A–O(b)(1)(A) would provide that incoming interest is “matched against orders within the Working Order Process in the order of their ranking, at the price of the displayed portion of Reserve Orders, or at the limit price of AON Orders, for the total amount of option contracts available at that price or for the size of the incoming bid or offer, whichever is smaller.”²² As noted herein, Stop Orders have no standing unless or until triggered, hence the reason the Working Order Process does not address the execution of such orders.

¹⁷ *See* proposed Rule 6.62–O(d)(4). *See also* Rule 6.76–O(a)(2)(C) (providing that AON Orders within the Working Order File [sic] are “ranked based on the specified limit price and the time of order entry”).

¹⁸ *See* proposed Rule 6.62–O(d)(4).

¹⁹ *See id.*

²⁰ *See* Rule 6.76A–O(b)(1)(A).

²¹ *See* proposed Rule 6.76A–O(b)(1)(A).

²² *See id.*

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)²³ of the Act, in general, and furthers the objectives of Section 6(b)(5),²⁴ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the Exchange believes that deleting inaccurate language (regarding Stop Orders) and enhancing the descriptions as to the functionality of Contingency Orders, Working Orders, Stop Orders and AON Orders types would add transparency and clarity to the Exchange’s rules, without altering current functionality. In addition, the Exchange believes that clarifying the definitions and current operation of Contingency Orders, Working Orders, Stop Orders and AON Orders removes impediments to, and perfects the mechanism of a free and open market by helping to ensure that investors better understand the current functionality of certain orders types available for trading on the Exchange.

The Exchange further believes that the proposal removes impediments to, and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange’s rulebook and better understand certain order types available for trading on the Exchange.

Technical Changes

The Exchange notes that the proposed organizational and non-substantive changes to the rule text, including to Rule 6.76A–O, would provide clarity and transparency to Exchange rules and would promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market and a national market system.

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

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather revise or amplify incomplete or

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

inaccurate rule text or remove language pertaining to unavailable functionality in the Exchange's rulebook, thereby reducing confusion and making the Exchange's rules easier to understand and navigate. The Exchange believes the proposed changes would add transparency to the operation of certain order types, without altering the current functionality.

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

No written comments were solicited or received with respect to the proposed rule change.

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 up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the 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 email to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2019-71 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-NYSEArca-2019-71. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2019-71 and should be submitted on or before November 29, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87445; File No. SR-NASDAQ-2019-060]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rules 4120 and 4753

November 1, 2019.

I. Introduction

On July 18, 2019, The Nasdaq Stock Market LLC ("Exchange" or "Nasdaq") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Rules 4120 and 4753

to permit the Exchange to declare a regulatory halt in a security that traded in the over-the-counter ("OTC") market prior to the initial pricing on the Exchange and to allow for the initial pricing of such a security through the IPO Cross. The proposed rule change was published for comment in the **Federal Register** on August 6, 2019.³ On September 19, 2019, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On September 19, 2019, the Exchange also filed Amendment No. 1 to the proposed rule change, which amended and superseded the proposed rule change as originally filed.⁶ The Commission received no comment letters on the proposed rule change. The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

Currently, a security that traded in the OTC market immediately prior to listing on the Exchange is released for initial trading on the Exchange by utilizing the Opening Cross pursuant to Rule

³ See Securities Exchange Act Release No. 86537 (July 31, 2019), 84 FR 38321.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 87012, 84 FR 50490 (September 25, 2019). The Commission designated November 4, 2019 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

⁶ In Amendment No. 1, the Exchange revised the proposal to: (1) Clarify that when a security previously traded in the OTC market is initially priced using the IPO Cross, the fourth tie-breaker for each of the Current Reference Price disseminated in the Nasdaq Order Imbalance Indicator and the price at which the cross will occur will be the price that is closest to the most recent transaction price in the OTC market; (2) specify that, for purposes of this proposed rule change, the use of the term "regulatory halt" refers to Nasdaq's authority to halt trading in a security under Rule 4120(a)(7); (3) clarify that, currently, a security that traded in the OTC market immediately prior to listing on Nasdaq is released for initial trading on Nasdaq through the Opening Cross under Rule 4752(d) and, pursuant to the proposal, if such an issuer does not retain a financial advisor, the initial pricing will continue to be effected through the Opening Cross; (4) include additional justification in support of the proposed rule change; and (5) make technical and conforming changes. Amendment No. 1 is available at <https://www.sec.gov/comments/sr-nasdaq-2019-060/srnasdaq2019060-6163792-192369.pdf>.

⁷ 15 U.S.C. 78s(b)(2)(B).

²⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.