

enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

The Exchange believes the proposal to revise the applicable fees or rebates associated with routing orders away from the Exchange does not a burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The fees and rebates associated with routing orders away from the Exchange apply to all Members on an equal and non-discriminatory basis and Members can choose to use (or not use) the Exchange's routing functionality as part of their decision to submit order flow to the Exchange.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 15 other equities exchanges and off exchange venues and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 15%<sup>36</sup> of the market share. Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>37</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is

'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . .'.<sup>38</sup> Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>39</sup> and paragraph (f) of Rule 19b-4<sup>40</sup> thereunder. 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

### IV. Solicitation of Comments

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

#### Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-CboeBZX-2023-049 on the subject line.

<sup>38</sup> *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

<sup>39</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>40</sup> 17 CFR 240.19b-4(f).

#### 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-CboeBZX-2023-049. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2023-049 and should be submitted on or before August 21, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>41</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-424, OMB Control No. 3235-0473]

### Proposed Collection; Comment Request; Extension: Rule 17Ad-3(b)

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services,

<sup>41</sup> 17 CFR 200.30-3(a)(12).

<sup>36</sup> *Supra* note 4.

<sup>37</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

100 F Street NE, Washington, DC  
20549-2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the existing collection of information provided for in Rule 17Ad-3(b) (17 CFR 240.17Ad-3(b)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 17Ad-3(b) requires registered transfer agents to send a copy of the written notice required under Rule 17Ad-2(c), (d), and (h) to the chief executive officer of each issuer for which the transfer agent acts when it has failed to turnaround at least 75% of all routine items in accordance with the requirements of Rule 17Ad-2(a), or to process at least 75% of all items in accordance with the requirements of Rule 17Ad-2(b), for two consecutive months. The issuer may use the information contained in the notices: (1) as an early warning of the transfer agent’s non-compliance with the Commission’s minimum performance standards regarding registered transfer agents; and (2) to become aware of certain problems and poor performances with respect to the transfer agents that are servicing the issuer’s issues. If the issuer does not receive notice of a registered transfer agent’s failure to comply with the Commission’s minimum performance standards, then the issuer will be unable to take remedial action to correct the problem or to find another registered transfer agent. Pursuant to Rule 17Ad-3(b), a transfer agent that has already filed a Notice of Non-Compliance with the Commission pursuant to Rule 17Ad-2 will only be required to send a copy of that notice to issuers for which it acts when that transfer agent fails to turnaround 75% of all routine items or to process 75% of all items for two consecutive months.

The Commission estimates that only one transfer agent will be subject to the third party disclosure requirements of Rule 17Ad-3(b) each year. If a transfer agent fails to meet the turnaround and processing requirements under 17Ad-3(b), it would simply send its issuer-clients a copy of the notice that had already been produced for the Commission pursuant to Rule 17Ad-2(c) or (d). The Commission estimates the requirement will take the transfer agent approximately four hours to complete. The total estimated burden

associated with Rule 17Ad-3(b) is thus approximately 4 hours per year. The Commission estimates that the internal compliance cost for the transfer agent to comply with this third party disclosure requirement will be approximately \$1,128 per year (4 hours × \$283 per hour = \$1,128). The total estimated internal cost of compliance associated with Rule 17Ad-3(b) is thus approximately \$1,128 per year. There are no external costs associated with sending the notice to issuer-clients.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by September 29, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

*Please direct your written comments to:* David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: July 25, 2023.

**J. Matthew DeLesDernier,**  
*Deputy Secretary.*

[FR Doc. 2023-16099 Filed 7-28-23; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97973; File No. SR-  
NASDAQ-2023-024]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 4, Rules 4752, 4753, and 4754

July 25, 2023.

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>

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

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

notice is hereby given that on July 19, 2023, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Equity 4, Rules 4752, 4753, and 4754<sup>3</sup> to clarify and restate the order in which Nasdaq prioritizes executions of Orders in its Opening, Closing, and Halt Crosses.

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 Exchange proposes to amend and restate portions of its Rules governing its Opening (Rule 4752) and Closing Crosses (Rule 4754) (collectively, the “Crosses”) to clarify the existing processes for execution prioritization, including by correcting errors and omissions, as well as to clarify the Exchange’s intentions for those processes. The Exchange also proposes to amend the Rule governing processing of the Halt Cross (Rule 4753) to accurately reflect the relative execution prioritization of Displayed and Non-Displayed Orders entered therein.

<sup>3</sup> References herein to Nasdaq Rules in the 4000 Series shall mean Rules in Nasdaq Equity 4.