

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed amendments.

**III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission and Advance Notice and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and paragraph (f) of Rule 19b-4<sup>11</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.

**IV. Solicitation of Comments**

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

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2019-016 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-ICEEU-2019-016. 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, security-based swap submission

or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission or advance notice 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 such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/clear-europe/regulation>.

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-ICEEU-2019-016 and should be submitted on or before August 15, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-86412; File No. SR-NASDAQ-2019-057]

**Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Amend Rule 4121**

July 19, 2019.

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 July 16, 2019, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 4121 (Trading Halts Due to Extraordinary Market Volatility) to enhance the re-opening auction process for Nasdaq listed securities following trading halts due to extraordinary market volatility.

The text of the proposed rule change is available on the Exchange's website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The purpose of the proposed rule change is to amend the re-opening auction process for Nasdaq listed securities following trading halts due to extraordinary market volatility (*i.e.*, "market-wide circuit breakers") to be similar to the process currently employed following a Trading Pause initiated pursuant to the Plan to Address Extraordinary Market Volatility (*i.e.*, the "Limit Up-Limit Down" or "LULD" Plan). In 2017, the Exchange amended its auction process for re-opening a Nasdaq listed security following a Trading Pause initiated pursuant to the LULD Plan.<sup>3</sup> Specifically, the Exchange modified its rules such that initial Auction Collars following a Trading Pause would be calculated using a new methodology based on the Price Band that triggered the Trading Pause, and instituted the process for extending the auction and

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f).

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

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

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

<sup>3</sup> See Securities Exchange Act Release No. 79876 (January 25, 2017), 82 FR 8888 (January 31, 2017) (SR-NASDAQ-2016-131).

further widening the collars if necessary to accommodate buy or sell pressure outside of the collars then in effect. The Exchange believes that these changes have been effective in facilitating a fair and orderly market following Trading Pauses initiated pursuant to the Limit Up-Limit Down Plan, and has decided to implement similar functionality for trading halts in Nasdaq listed securities following the initiation of market-wide circuit breakers.<sup>4</sup> The Exchange believes that the proposed changes would promote price formation and provide a more consistent re-opening process for members and investors following such trading halts, similar to the current implementation on NYSE Arca, Inc. (“Arca”) and Cboe BZX Exchange, Inc. (“BZX”).<sup>5</sup>

Today, trading in Nasdaq listed securities would resume on the Exchange in most cases through a Halt Cross,<sup>6</sup> including after a Level 1 or Level 2 market-wide circuit breaker trading halt initiated under Rule 4121. In particular, Rule 4121(c)(i) provides that the re-opening of trading following a Level 1 or Level 2 trading halt shall follow the procedures set forth in Rule 4120. These procedures are in Rule 4120(c)(7), which provides, in relevant part, for a 5-minute Display Only Period during which market participants may enter quotes and orders in Nasdaq systems, at the conclusion of which trading will immediately resume through the Halt Cross under Rule 4753.<sup>7</sup> Additionally, the Exchange will extend the Display Only Period for an additional 1-minute period if there is volatility during the Display Only Period (*i.e.*, an order imbalance in the security). The volatility checks are governed under Rule 4120(c)(7)(C)(1) and (2), and provides that the Display

Only Period will be extended if: (i) The expected cross price moves the greater of 5% or 50 cents, or (ii) all market orders will not be executed in the cross. The Exchange now proposes to amend this process such that for the resumption of trading after a Level 1 or Level 2 market-wide circuit breaker trading halt, the Exchange proposes to instead follow a process similar to that currently applied for releasing a security following a Trading Pause initiated under the LULD Plan, which is described in Rule 4120(c)(10).

Rule 4120(c)(10), which describes the current process for resuming trading after a Trading Pause, provides for an initial auction period and additional auction periods with widening price collars should the security fail to conclude each auction period. For any such security listed on Nasdaq, prior to terminating the pause, there is a 5-minute initial Display Only Period during which market participants may enter quotations and orders in that security in Nasdaq systems. During this initial period, the Exchange also establishes the auction reference price (hereinafter “LULD Auction Reference Price”),<sup>8</sup> as well as the upper and lower auction collar (hereinafter, “LULD Auction Collar”) prices.<sup>9</sup> The security is released at the end of the initial Display Only Period unless the Exchange detects an order imbalance<sup>10</sup> in the security, in which case the initial Display Only Period is extended for an additional five minutes, and the LULD Auction Collar prices are further widened by 5% increments (or \$0.15 for securities with a LULD Auction Reference Price of \$3 or less) in the direction of the order imbalance.<sup>11</sup> At the end of the first extended Display Only Period, the security is released for trading unless there is an order imbalance in the security, in which case the extended Display Only Period will be further extended every five minutes in the manner described in Rule 4120(c)(10)(B) until the security is released for trading. The security is released for trading at

the first point there is no order imbalance.

#### Proposal

The Exchange now proposes to implement this process for resuming trading following a market-wide circuit breaker under Rule 4121 as well. As noted above, the current re-opening process for a Level 1 or Level 2 trading halt initiated under Rule 4121 does not have a mechanism for calculating price collars and a process for widening the collars if necessary to accommodate buy or sell pressure outside of the collars then in effect. The Exchange therefore believes that its proposal will facilitate a fair and orderly market following such trading halts initiated pursuant to a Level 1 or Level 2 market-wide circuit breaker that is designed to reduce the potential for significant price disparity in post-auction trading. The proposed process for re-opening a Nasdaq listed security under Rule 4121 would be substantially similar to the re-opening process employed today for Trading Pauses under Rule 4120(c)(10), with certain differences discussed below, primarily related to the calculation of the halt auction collars.

Accordingly, the Exchange will provide in new paragraph (d) to Rule 4121 that a Level 1 or Level 2 trading halt initiated under this Rule (“MWCB Halt”) shall be terminated when Nasdaq releases the security for trading.<sup>12</sup> For any such security listed on Nasdaq, prior to terminating the MWCB Halt, there will be a 15-minute “Initial Display Only Period” during which market participants may enter quotations and orders in that security in Nasdaq systems. The Initial Display Only Period will be 15 minutes in duration instead of the 5 minute initial display only period currently employed for Trading Pauses under Rule 4120(c)(10) to coincide with the entire duration of a MWCB Halt.<sup>13</sup> The Exchange believes that the proposed Initial Display Only Period would provide additional time to attract offsetting interest, and would help address order imbalances that may not be resolved within the current 5-minute period.

Proposed Rule 4121(d)(1)(A) will provide that during the Initial Display Only Period, the Exchange will also establish the “Auction Reference Price.” The Auction Reference Price shall mean the Nasdaq last sale price (either round

<sup>4</sup> A market-wide circuit breaker is triggered if the price of the S&P 500 Index declines by a specified amount compared to the closing price for the immediately preceding trading day. See Rule 4121.

<sup>5</sup> Both Arca and BZX implemented similar processes for resuming trading following non-LULD regulatory halts (which include trading halts following market-wide circuit breakers). See Securities Exchange Act Release Nos. 79846 (January 19, 2017), 82 FR 8548 (January 26, 2017) (SR-NYSEArca-2016-130); and 84927 (December 21, 2018), 83 FR 67768 (December 31, 2018) (SR-CboeBZX-2018-090).

<sup>6</sup> The Halt Cross process is set forth in Rule 4753. As discussed in more detail later in this filing, the Halt Cross does not apply to the re-opening of a Nasdaq listed security following a Trading Pause initiated under the LULD Plan, which instead re-opens pursuant to Rule 4120(c)(10).

<sup>7</sup> The Exchange would then re-open the Nasdaq listed security that was subject to the Level 1 or Level 2 market-wide circuit breaker trading halt at an execution price determined pursuant to the execution algorithm in Rule 4753(b)(2)(A)–(D), which sets forth a series of tie-breakers for selecting the execution price of the Halt Cross.

<sup>8</sup> See Rule 4120(c)(10)(A)(i).

<sup>9</sup> See Rule 4120(c)(10)(A)(ii). In contrast, price collars would not be established for re-opening a Nasdaq listed security after a Level 1 or Level 2 market-wide circuit breaker trading halt today. As noted above, the Exchange would instead re-open at an execution price determined pursuant to the execution algorithm in Rule 4753(b)(2)(A)–(D). See *supra* note 8.

<sup>10</sup> For purposes of Rule 4120(c)(10), an order imbalance is established if: (i) The calculated price at which the security would be released for trading is outside the applicable Auction Collar prices calculated under paragraphs (A), (B), or (C) of Rule 4120(c)(10); or (ii) all market orders would not be executed in the cross. See Rule 4120(c)(10)(E).

<sup>11</sup> See Rule 4120(c)(10)(B).

<sup>12</sup> Rule 4121(c)(i) currently points to Rule 4120 for the re-opening process following a MWCB Halt. The new re-opening process will be set forth in proposed Rule 4121(d), so the Exchange will delete this portion from the current Rule.

<sup>13</sup> See Rule 4121(b).

or odd lot) after 9:15 a.m. Eastern Time (“ET”) but prior to the MWCB Halt and, if none, the prior trading day’s Nasdaq Office Closing Price (“NOCP”). The Exchange is not proposing to use the LULD Auction Reference Price, which is based on the Price Band that triggered the Trading Pause, as the Exchange believes that a different reference is necessary for a re-opening process that is unrelated to the LULD mechanism. The Exchange has chosen to use the last Nasdaq sale price prior to the MWCB Halt (or if none, the prior trading day’s NOCP) in this circumstance as this price is reflective of the current market for the halted security. The Exchange’s proposal is similar to the current implementation on Arca and BZX.<sup>14</sup>

Proposed Rule 4121(d)(1)(B) will describe how the Exchange would calculate the upper and lower “MWCB Auction Collar” prices during the Initial Display Period. Specifically, the initial upper and lower collar prices would be determined as follows:

- The lower MWCB Auction Collar is derived by subtracting from the Auction Reference Price 10% of the Auction Reference Price, rounded to the nearest minimum price increment,<sup>15</sup> or in the case of securities with an Auction Reference Price of \$5 or less, \$0.50.
- The upper MWCB Auction Collar is derived by adding to the Auction Reference Price 10% of the Auction Reference Price, rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of \$5 or less, \$0.50.

In contrast, the initial price collar thresholds currently used for the LULD mechanism are applied only in the direction of the trading that invoked the Trading Pause.<sup>16</sup> In this case, because there would not be a security-specific

pricing direction reason for the MWCB Halt, the Exchange believes that it is appropriate to apply the initial thresholds on both sides of the Auction Reference Price. For example, if the Nasdaq last sale price (either round or odd lot) after 9:15 a.m. ET but prior to the MWCB Halt for a security is \$100.00, then the lower and upper initial MWCB Auction Collar prices would be \$90 and \$110—*i.e.*, 10% below and above the Nasdaq last sale price. This mirrors the application of the initial halt auction collars on both Arca and BZX today, except the Exchange’s proposed MWCB Auction Collar threshold amounts will be 10% of the Auction Reference Price (or \$0.50 for securities priced \$5 or less).<sup>17</sup> The Exchange believes that the wider parameters proposed for MWCB Auction Collars are set at appropriate levels that would allow the Exchange to re-open trading in securities more quickly while still reducing the potential to re-open at a price that is significantly away from the last traded price of the security. Furthermore, the Exchange has traditionally been a listing venue for equity stocks, while Arca and BZX have traditionally listed more ETFs. ETFs track entire sectors, indices or other groups of assets, which can mute the effect of price volatility of the ETF. The Exchange therefore believes that the wider price bands proposed herein strikes an appropriate balance between allowing the Exchange to return to normal continuous trading in a measured, timely manner while accommodating the potential higher volatility of individual stocks.

Proposed Rules 4121(d)(2) and (d)(3) will specify the circumstances when the Exchange would extend the Display Only Period for a MWCB Halt re-opening process, and how the Exchange would adjust the MWCB Auction Collars for each extension. In particular, at the conclusion of the Initial Display Only Period, the security will be released for trading unless, at the end of the Initial Display Only Period, Nasdaq detects an order imbalance in the security.<sup>18</sup> In that case, Nasdaq will extend the Display Only Period for an additional 5-minute period (“Extended Display Only Period”), and the MWCB

Auction Collar prices will be adjusted as follows:

- If the Display Only Period is extended because the calculated price at which the security would be released for trading is below the lower MWCB Auction Collar price or all sell market orders would not be executed in the cross, then the new lower MWCB Auction Collar price is derived by subtracting 10% of the Auction Reference Price, which was rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of \$5 or less, \$0.50, from the previous lower MWCB Auction Collar price, and the upper MWCB Auction Collar price will not be changed.
- If the Display Only Period is extended because the calculated price at which the security would be released for trading is above the upper MWCB Auction Collar price or all buy market orders would not be executed in the cross, then the new upper MWCB Auction Collar price is derived by adding 10% of the Auction Reference Price, which was rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of \$5 or less, \$0.50, to the previous upper MWCB Auction Collar price, and the lower MWCB Auction Collar price will not be changed.

At the conclusion of the Extended Display Only Period, the security will be released for trading unless, at the end of the Extended Display Only Period, Nasdaq detects an order imbalance in the security. In that case, Nasdaq will further extend the Display Only Period, continuing to adjust the MWCB Auction Collar prices every five minutes in the manner described in Rule 4121(d)(2) until the security is released for trading; provided, however, that Nasdaq will not adjust the MWCB Auction Collar prices past 50% of the Auction Reference Price for any security during any Extended Display Only Period. During any additional Extended Display Only Period after the first Extended Display Only Period, Nasdaq shall release the security for trading at the first point there is no order imbalance.

As proposed, the process for initiating extensions of the Display Only Period for a MWCB Halt auction will be identical to the process currently used for extending Trading Pauses, with only two differences that relate to the calculation of the auction collars. First, for each extension period, the MWCB Auction Collars would be widened in the direction of the imbalance using the wider parameters described above for the initial MWCB Auction Collar (*i.e.*,

<sup>14</sup> See Arca Rule 7.35–E(a)(8)(A) and BZX Rule 11.23(a)(9). See also SR–CboeBZX–2018–090 for discussion of similarities between Arca’s and BZX’s auction reference prices for non-LULD regulatory halts. The Exchange’s proposed Auction Reference Price for MWCB Halts is substantially similar to Arca’s and BZX’s auction reference prices, except the Exchange will use the last Nasdaq sale price prior to the MWCB Halt, as described above. The Exchange believes that it is appropriate to use the price of a trade on the primary listing market, *i.e.*, Nasdaq, to set the reference price for auctions in Nasdaq listed securities when such a trade has been executed recently.

<sup>15</sup> The term “minimum price increment” means \$0.01 in the case of a System Security priced at \$1 or more per share, and \$0.0001 in the case of a System Security priced at less than \$1 per share. See Rule 4107(k). Thus, for example, if adding 10% of the Auction Reference Price to the MWCB Auction Collar would result in a tenth of a penny, the Exchange would round down to the nearest penny when the calculation results in one to four tenths of a penny, and the Exchange would round up to the nearest penny when the calculation results in five to nine tenths of a penny.

<sup>16</sup> See Rule 4120(c)(10)(A)(ii).

<sup>17</sup> Both Arca and BZX employ auction collar thresholds identical to the parameters currently used for LULD auction collars (*i.e.*, 5% of the auction reference price, or \$0.15 for securities with an auction reference price of \$3 or less). See Arca Rule 7.35–E(e)(7)(B)(ii) and BZX Rule 11.23(d)(2)(C)(i)(B).

<sup>18</sup> As discussed below, an order imbalance under the proposed re-opening process for MWCB Halts will be established in the same manner as an order imbalance under the current LULD re-opening process as set forth in Rule 4120(c)(10)(E).

by an additional 10% or \$0.50 for securities with an Auction Reference Price of \$5 or less) as opposed to the parameters currently used to widen LULD Auction Collars (*i.e.*, by an additional 5% or \$0.15 for securities with a reference price of \$3 or less). Second, the Exchange would not adjust the MWCBA Auction Collars past 50% of the Auction Reference Price for any security during any Extended Display Only Period, whereas under the current LULD mechanism, the price collars would continue to be adjusted for each extension period.<sup>19</sup> For example, a security with an Auction Reference Price of \$3 would have initial lower and upper MWCBA Auction Collar prices of \$2.50 and \$3.50. If all buy market orders would not be executed in the cross at the end of the Initial Display Only Period, the Exchange would extend the Display Only Period and widen the upper MWCBA Auction Collar price to \$4.00. The lower MWCBA Auction Collar price would remain at \$2.50. If there continues to be any buy side imbalance at the end of the first Extended Display Only Period, the Exchange would further adjust the upper collar price to \$4.50 (while keeping the lower collar at \$2.50) for the second extension period. To the extent there are subsequent Extended Display Only Periods to accommodate buy side trading interest, the Exchange would not adjust the upper MWCBA Auction Collar past \$4.50 (*i.e.*, 50% of the Auction Reference Price), and would continue to use this price threshold for the duration of the MWCBA Halt, until the security is released for trading.

As mentioned above, unlike the current implementation of auction collars under LULD as well as similar MWCBA auction collars on Arca and BZX, the Exchange will not adjust the MWCBA Auction Collars past 50% of the Auction Reference Price. The Exchange recognizes that the proposed 50% limit for adjusting the MWCBA Auction Collars may prevent the transition to continuous trading, particularly in instances of extreme price volatility that could result in increased Extended Display Only Periods. On the other hand, however, if there was no limit on adjusting the price collars, there is potential for extreme volatility resulting in trades at prices far away from a security's fundamental value, ultimately harming investors that are party to the trade. The Exchange considered using

<sup>19</sup> Thus as proposed, if the upper or lower MWCBA Auction Collar is already adjusted by 50% of the Auction Reference Price for any extension period, that price threshold will be used for the duration of the MWCBA Halt, until the security is released for trading.

the same logic as currently implemented under the LULD mechanism (*i.e.*, where there is no limit on adjusting the price collars) and ultimately determined not to align its proposal in this manner. The Exchange believes that it may be more appropriate to continue adjusting price collars in the context of LULD where trading is halted due to a period of extraordinary volatility in a single security (as opposed to all securities under a MWCBA Halt) because there may be instances of a discrete event (such as the announcement of material news) that ultimately impacts the value of the individual security. A MWCBA Halt, however, will be triggered during a period of significant volatility across markets that may not correlate to the fundamental value of a single security. As such, the Exchange believes that by proposing to adjust the MWCBA Auction Collars up to 50% of the Auction Reference Price, an appropriate balance can be achieved in favor of preventing extraordinary volatility that could result in significant price disparity in post-auction trading.

Proposed Rule 4121(d)(4) will specify that an order imbalance would be established for purposes of the process under Rule 4121 as follows:<sup>20</sup>

- The calculated price at which the security would be released for trading is above (below) the upper (lower) MWCBA Auction Collar price calculated under paragraphs (1), (2), or (3) of Rule 4121(d); or

- all market orders would not be executed in the cross.

Proposed Rule 4121(d)(5) will describe how the MWCBA Auction Collars will function in the event of more than one trading halt initiated under Rule 4121 in the same day. In the event of a Level 2 Market Decline while a security is in a Level 1 MWCBA Halt and has not been released for trading, Nasdaq will recalculate the lower and upper MWCBA Auction Collar prices in the particular security in accordance with paragraph (1)(B) of Rule 4121.<sup>21</sup> In this instance, the Exchange will start the calculation of the new upper and lower MWCBA Auction Collar prices using 10% of the Auction Reference Price, rounded to the nearest minimum price increment, or \$0.50 for securities with

<sup>20</sup> This is the same manner in which an order imbalance is established under the current re-opening process for Trading Pauses. See Rule 4120(c)(10)(E).

<sup>21</sup> As currently provided in Rule 4121(b)(i), the Exchange would halt trading based on a Level 1 or Level 2 Market Decline only once per day. Thus for example, if a Level 1 Market Decline were to occur and trading were halted, following the re-opening of trading, the Exchange would not halt the market again unless a Level 2 Market Decline were to occur.

an Auction Reference Price of \$5 or less. The Exchange believes that the proposed language would bring greater transparency to market participants in how the Exchange would handle the calculation of MWCBA Auction Collars.

The Exchange also proposes to add new paragraph (e) to Rule 4121 to describe how the Exchange will handle the publication of MWCBA Halt Information. Specifically, at the beginning of the Initial Display Only Period and continuing through the resumption of trading, Nasdaq will disseminate by electronic means an Order Imbalance Indicator<sup>22</sup> every second. The Exchange also proposes to make a related change by adding new Rule 4753(a)(3)(G), which will provide that for purposes of a MWCBA Halt initiated pursuant to Rule 4121, the Order Imbalance Indicator will include Auction Reference Prices and MWCBA Auction Collars, as defined in Rule 4121(d).

The Exchange also proposes a number of formatting clean-ups in Rule 4121. In light of the above changes, Rule 4121(d) will be renumbered as Rule 4121(f). Finally, subparagraphs (i)–(iv) in Rule 4121(a) and subparagraphs (i)–(ii) in Rule 4121(b) will be renumbered as subparagraphs (1)–(4) and subparagraphs (1)–(2), respectively, for greater consistency with the Rulebook.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>23</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>24</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change is consistent with the Act because it would amend the halt auction process following a MWCBA Halt to be more closely aligned with the process currently implemented for halt auctions following a Trading Pause under the LULD Plan. The Exchange amended its re-opening process following a Trading Pause to better

<sup>22</sup> As described in Rule 4753(a)(3), an "Order Imbalance Indicator" is a message disseminated by electronic means containing information about Eligible Interest and the price at which such interest would execute at the time of dissemination.

"Eligible Interest" is defined as any quotation or any order that has been entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross. See Rule 4753(a)(5).

<sup>23</sup> 15 U.S.C. 78f(b).

<sup>24</sup> 15 U.S.C. 78f(b)(5).

account for buy or sell pressure by changing the manner in which initial LULD Auction Collars are established, and widening the collars as appropriate to accommodate trading interest submitted to participate in the auction. The Exchange believes that these changes have been generally successful in facilitating a fair and orderly process for re-opening securities following a Trading Pause. The Exchange has therefore decided to use a similar process for halt auctions following a MWCBA Halt. The Exchange believes that its proposal would benefit investors by facilitating price discovery and promoting more consistency in how the Exchange conducts the re-opening process following a Trading Pause or a MWCBA Halt.

While the proposed re-opening process following MWCBA Halts would largely follow the re-opening process in place today for Trading Pauses, there would be several notable differences. These differences are primarily designed to ensure that suitable MWCBA Auction Collars are utilized for the re-opening process following MWCBA Halts. For instance, while an Auction Reference Price based on the Price Band that triggered the Trading Pause continues to be appropriate in the context of the re-opening process following Trading Pauses, the Exchange believes that a different reference is necessary for the re-opening process for MWCBA Halts. The Exchange has chosen to use the Nasdaq last sale price and, if none, the prior trading day's NOCP as the MWCBA Auction Reference Price in these circumstances as this price is reflective of the current market for the halted security. Similarly, the Exchange believes that it is appropriate to calculate both upper and lower MWCBA Auction Collars that are a specified percentage or dollar amount from this reference price because MWCBA Halts do not involve security specific buy or sell pressure. These differences are similar to the application of MWCBA Auction Collars on Arca and BZX today, except for the parameters used to calculate the price collars.<sup>25</sup> The Exchange believes that the wider parameters of 10% increments (or \$0.50 for securities priced at \$5 or less) proposed above for MWCBA Auction Collars when compared to the parameters of 5% increments (or \$0.15 for securities priced at \$3 or less) currently used to calculate the LULD Auction Collars are set at appropriate levels that would allow the Exchange to re-open trading in securities more quickly while still reducing the

potential for re-opening at a price that is significantly away from the last traded price of the security. Furthermore, the Exchange believes that it is appropriate to stop widening the MWCBA Auction Collar prices past 50% of the Auction Reference Price to ensure that upon the resumption of trading after an MWCBA Halt, the security is priced at a reasonable level from the Auction Reference Price.<sup>26</sup>

Otherwise, the proposed re-opening process for MWCBA Halts is consistent with the current LULD re-opening process. Similar to the current LULD re-opening process, the Exchange also believes that the proposed process is consistent with the protection of investors and the public interest because they are designed to facilitate price discovery by ensuring that all market order interest could be satisfied in the auction process following MWCBA Halts. Furthermore, the Exchange believes that the standardized procedures to extend MWCBA Halt auctions an additional five minutes are appropriate because this would provide additional time to attract offsetting liquidity. If at the end of such extension, market orders still cannot be satisfied within the applicable collars, or if the re-opening price would be outside of the applicable collars, the Exchange would extend the halt auction process an additional five minutes. The Exchange believes that extending the auction in these circumstances would protect investors and the public interest by reducing the potential for significant price disparity in post-auction trading. With each such extension, the Exchange believes that it is appropriate to widen the price collar threshold on the side of the market on which there is buying or selling pressure as market conditions may prevent an order imbalance from being resolved within the prior auction collars.

The Exchange also believes it is appropriate to add language clarifying how the MWCBA Auction Collars will function in the event of more than one trading halt initiated under Rule 4121 in the same day. The proposed changes would increase transparency in how the Exchange would handle the calculation of MWCBA Auction Collars, and is therefore consistent with the public interest and the protection of investors. The Exchange likewise believes that specifying how it will handle the

<sup>26</sup> As noted above, this is different from the current implementation of the price collars under the LULD mechanism where the price collars continue to be adjusted for each extension period. This also differs from the current implementation of non-LULD price collars on Arca and BZX, which both mirror the LULD process in this respect.

publication of MWCBA Halt information will bring greater transparency around the operation of the Exchange's auction process.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to provide for a measured and transparent process for re-opening Nasdaq listed securities after a MWCBA Halt that is similar to the current re-opening process following a Trading Pause initiated under the LULD Plan and the process already implemented on Arca and BZX for non-LULD regulatory halts.

#### *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 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2019-057 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.

<sup>25</sup> See *supra* notes 14 and 17 above, with accompanying text.

All submissions should refer to File Number SR–NASDAQ–2019–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>).

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

All submissions should refer to File Number SR–NASDAQ–2019–057 and should be submitted on or before August 15, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2019–15776 Filed 7–24–19; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86415; File No. SR–CboeEDGX–2019–046]

### Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Update Rule 16.1 To Include the Definition of Capacity, as well as Amend Its Fee Schedule To Reflect This Update

July 19, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on July 17, 2019, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b–4(f)(6) thereunder.<sup>4</sup> 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

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX Options”) proposes to update Rule 16.1 to include the definition of capacity, as well as amend its fee schedule to reflect this update. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/options/regulation/rule\\_filings/edgx/](http://markets.cboe.com/us/options/regulation/rule_filings/edgx/)), at the Exchange's Office of the Secretary, 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 add “capacity” as a defined term under Rule 16.1 (Definitions). The proposed change intends to codify the definition of capacity in its rules, which is currently referenced in its technical

specifications<sup>5</sup> and in certain rules.<sup>6</sup> This proposed change is also a harmonizing change intended to conform to the capacity definition under the rules of its affiliated exchange, Cboe C2 Exchange, Inc. (“C2”). The Exchange also proposes to update a term under Rule 20.7 (Audit Trail) to reflect the proposed capacity definition. In addition to this, the Exchange proposes to conform certain definitions under its fee schedule to this proposed definition.

Currently, the System<sup>7</sup> allows for a User to mark its order with various capacity codes which correspond to the capacity of the User (*i.e.*, a customer, a Market Maker, etc.),<sup>8</sup> and, pursuant to current Exchange Rules, Users are required to submit orders with the proper capacity identification.<sup>9</sup> The current Exchange Rules, however, do not provide for a specific definition of the capacity in which a User may submit an order nor for the corresponding codes for different User capacity types. Additionally, the current fee schedule provides that a Member's transaction is assigned a fee code and defines the various types (*i.e.*, capacity type) of Members to which the corresponding fee codes are assigned. Specifically, the Member type definitions apply to any transaction identified by such Member. For example, “Market Maker” applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker.

The Exchange now proposes to amend Rule 16.1 to codify the definition of “capacity”. The Exchange proposes to define “capacity” to mean the capacity in which a User submits an order, which the User specifies by applying the corresponding code to the order. The proposed corresponding codes and capacity types include: “B” to an order for the account of a broker dealer, including a foreign broker dealer; “C” to an order for the account of a Priority Customer; “F” to an order for the proprietary account of an OCC clearing member firm; “J” to an order for a joint back office account; “M” to an order for the account of a registered Market

<sup>5</sup> See Cboe Options Exchanges Binary Order Entry Specification, available at [http://cdn.batstrading.com/resources/membership/US\\_Options\\_BOE\\_Specification.pdf](http://cdn.batstrading.com/resources/membership/US_Options_BOE_Specification.pdf).

<sup>6</sup> See Rule 18.2, Rule 20.7(b), and Rule 21.10.

<sup>7</sup> The automated trading system used by EDGX Options for the trading of options contracts. See Rule 16.1.

<sup>8</sup> See Cboe Options Exchanges Binary Order Entry Specification, available at [http://cdn.batstrading.com/resources/membership/US\\_Options\\_BOE\\_Specification.pdf](http://cdn.batstrading.com/resources/membership/US_Options_BOE_Specification.pdf).

<sup>9</sup> See Rule 20.7.

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

<sup>2</sup> 17 CFR 240.19b–4.

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

<sup>4</sup> 17 CFR 240.19b–4(f)(6).

<sup>27</sup> 17 CFR 200.30–3(a)(12).