



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105199; File No. SR-Nasdaq-2025-109]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment Nos. 2 and 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Amended by Amendment Nos. 2 and 3, to Extend the Exchange’s Trading Hours to 23 Hours a Day, Five Days a Week

April 10, 2026.

On December 29, 2025, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to extend the Nasdaq trading hours for NMS stocks to 23 hours a day, five days a week. The proposed rule change was published for comment in the Federal Register on January 13, 2026.³ The Commission received comments on the proposed rule change⁴ and a letter responding to the comments from Nasdaq.⁵

On February 25, 2026, pursuant to Section 19(b)(2) of the Act, the Commission designated a longer period within which to take action on the proposed rule change.⁶ On March 12, 2026, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded the original proposed rule change in its entirety. On March 12, 2026, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change as described in Items I

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 104563 (Jan. 8, 2026), 91 FR 1350 (Jan. 13, 2026) (“Notice”).

⁴ Comment letters on the proposal are available at <https://www.sec.gov/rules-regulations/public-comments/sr-nasdaq-2025-109>.

⁵ See letter from Brett Kitt, Vice President and Deputy General Counsel, Nasdaq, dated March 12, 2026 (“Nasdaq Letter”) available at <https://www.sec.gov/rules-regulations/public-comments/sr-nasdaq-2025-109>.

⁶ See Securities Exchange Act Release No. 104886 (Feb. 25, 2026), 91 FR 10162 (Mar. 2, 2026).

and II below, which Items have been prepared by the Exchange.⁷ On March 20, 2026, the Exchange filed Amendment No. 3 to the proposed rule change to state that Amendment No. 2 replaced and superseded the original proposed rule change in its entirety.⁸ The Commission is publishing this notice to solicit comments on Amendment Nos. 2 and 3 (“Amended Proposal”) from interested persons and is approving the Amended Proposal, on an accelerated basis.

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

The Exchange proposes to amend the Exchange’s Rulebook to provide for the Exchange to trade NMS stocks and exchange traded products 23 hours per day, five days per week. This Amendment No. 2 to SR-NASDAQ-2025-109 supersedes and replaces Amendment No. 1 to SR-NASDAQ-2025-109 in its entirety, which superseded the original filing in its entirety.⁹

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

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

⁷ Amendment No. 2 to the proposed rule change revises the proposal by changing the definition of Business Day, adding additional risk disclosure with respect to the Night Session and clarifying that during the Night Session: (1) all NMS stocks may trade; (2) unpriced orders, like pegged orders, will not be permitted; (3) Equity 11, Rule 11890, clearly erroneous execution rules (“CE Rules”) and Equity 4, Rule 4757(c), limit order protection (“LOP”) rules will be applicable; (4) M-ELO orders as defined in Equity 4, Rule 4702(b)(14), will be rejected; and (5) the Night Session specific ports will use the OUCH 5 technology; in addition to other non-substantive changes to conform and clarify the proposed rule text. The full text of Amendment No. 2 can be found on the Commission’s website at: <https://www.sec.gov/rules-regulations/public-comments/sr-nasdaq-2025-109>.

⁸ The full text of Amendment No. 3 can be found on the Commission’s website at: <https://www.sec.gov/rules-regulations/public-comments/sr-nasdaq-2025-109>.

⁹ See Amendment No. 3, *supra* note 8. The Exchange filed and subsequently withdrew Amendment No. 1 to SR-NASDAQ-2025-109 on March 12, 2026.

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 Exchange’s Rulebook to provide for the Exchange to trade NMS stocks and exchange traded products (“ETPs”) on a 23 hours per day, five days per week basis (“23/5”).

Background and Overview

The history of the U.S. equities markets is one marked by successive waves of change and technological innovation. Among other things, these changes and innovations included the automation of trading and the introductions of decimalization, algorithmic trading, and colocation. When these innovations arose, they spurred equity market structure to evolve to accommodate them. The latest change to impact the markets is rising investor interest in trading U.S. equities during overnight hours, especially among investors located outside of the United States.¹⁰ To align Nasdaq with emerging investor interest in trading outside of traditional U.S. market hours, Nasdaq now proposes to extend its hours for trading NMS stocks and ETPs on the Exchange from 16 hours per day, 5 days per week, to 23 hours per day, 5 days per week.

Nasdaq has designed its proposal for 23/5 trading carefully. We have solicited and we continue to solicit feedback from those who stand to be impacted most by the proposal, including Nasdaq’s listed companies and market participants. Nasdaq is also an active participant in

¹⁰ Certain alternative trading systems (“ATS”), such as Blue Ocean, already trade securities on an overnight basis. Meanwhile, the Commission has approved several new and existing exchanges to securities on an extended overnight basis, but none has begun to do so. See Securities Exchange Act Release No. 34-102400 (Feb. 11, 2025); 90 FR 9794 (Feb. 18, 2025) (order approving NYSE Arca Inc. proposal to lengthen its trading session to 22 hours per day, 5 days per week) (“NYSE Arca Approval Order”); Securities Exchange Act. Release No. 89-235 [sic] (Nov. 27, 2024); 89 FR 97092 (order approving application of 24X National Exchange, LLC for registration as a national securities exchange and to trade 23 hours per day, 5 days per week) (“24X Approval Order”).

ongoing industry discussions about how to address, in a coordinated manner, market protections, halts, and corporate actions.

By way of background, Nasdaq presently trades securities in three daily sessions during each weekday from Monday through Friday. First, Nasdaq operates a Pre-Market Hours session from 4:00AM to 9:30AM ET.¹¹ Second, commencing at 9:30AM with the execution of the Nasdaq Opening Cross, Nasdaq conducts its Regular Market Hours trading session until 4:00PM.¹² Third, commencing at 4:00PM with the execution of the Nasdaq Closing Cross, Nasdaq conducts a Post-Market Hours¹³ trading session until 8:00 PM.¹⁴ During weekdays, between the hours of 8:00 PM-4:00 AM ET, the Exchange is closed to trading as it is during all weekend hours.

During its current Pre-Market and Post-Market trading sessions, Nasdaq offers more limited trading functionality than it does during the Regular Market Hours trading session and trading during that period is subject to different regulation. For example, outside of “regular trading hours,”¹⁵ only certain aspects of the SEC’s Regulation National Market System (“Reg.

¹¹ See Rule Equity 1, Section 1(a)(9) (defining the term “Pre-Market Hours” as “the period of time beginning at 4:00 a.m. ET and ending immediately prior to the commencement of Market Hours.”). As discussed below, the Exchange is proposing non-substantive changes to this rule.

¹² See Rule Equity 1, Section 1(a)(9) (defining the term “Market Hours” as the period of time beginning at 9:30 a.m. ET and ending at 4:00 p.m. ET or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early). As discussed below, the Exchange proposes to rename this session “Regular Market Hours” and make other non-substantive conforming changes to this rule.

¹³ See Rule Equity 1, Section 1(a)(9) (defining the term “Post-Market Hours” as the period of time beginning immediately after the end of Market Hours and ending at 8:00 p.m. ET). As discussed below, the Exchange is proposing non-substantive changes to this rule.

¹⁴ The Exchange uses different terms to describe each of its trading sessions. For example, to refer to its pre-market hours session, the Exchange uses varying terms, such as “Pre-Market,” “Early Market Hours,” or “Early Market.” And to refer to its post-market hours session, the Exchange uses varying terms, such as “Post-Market,” “Extended Hours,” and “Extended Market Hours.” As part of this filing, the Exchange proposes to harmonize disparate and inconsistent references to these concepts to avoid confusion. Throughout the Rulebook, as amended, the Exchange proposes to define the terms “Pre-Market Hours” and “Post-Market Hours” exclusively to refer to those specific trading periods. In addition, the Exchange proposes to define the term “Extended Hours” to refer more generally to trading that occurs outside of Regular Market Hours. See proposed Rule 1, Equity 1, Sections 1(a)(20)-(21) and (23) (defining the terms “Pre-Market Hours,” “Post-Market Hours,” and “Extended Hours,” respectively).

¹⁵ See 17 CFR 242.600(b)(88) (defining the term “regular trading hours” to mean 9:30AM-4PM Eastern Time).

NMS”)¹⁶ apply. Meanwhile, the Exchange does not offer certain order types during these trading sessions, such as unpriced orders and pegged orders. Moreover, during extended hours trading sessions, liquidity tends to be lower than it is during regular trading hours. Additionally, stocks often experience more volatile trading activity during these sessions. For reasons such as those described above, Exchange members may not accept an order from a customer for execution in these extended hours trading sessions without disclosing to such customer that extended hours trading involves material risks.¹⁷ Similarly, to the extent that markets like Nasdaq allow trading to occur in extended hours trading sessions, FINRA requires brokers that participate in these sessions to affirmatively disclose to investors that extended hours trading carries greater risks than trading during regular market hours.¹⁸

Although trading volume in extended hours trading tends to be considerably lower than it is during regular market hours, Nasdaq has observed a growing interest in trading during overnight hours, particular among investors located in Asia and other foreign jurisdictions where business hours do not coincide, fully or otherwise, with U.S. regular market hours. For these investors, extended market hours trading sessions often provide some real-time access to Nasdaq during their business hours, but for many, Nasdaq is closed during hours when they are most apt to trade. Increasingly, these investors are turning to ATSS that offer overnight trading, such as Blue Ocean, Bruce, Interactive Brokers, and OTC Moon. They are also increasingly utilizing trading platforms that provide access to markets for digital assets, including cryptocurrencies, tokenized assets, and tokenized securities, on a 24/7 basis. Nasdaq submits its proposal to extend

¹⁶ 17 CFR 242.600-614.

¹⁷ See Rule Equity 2, Section 20 (“Customer Disclosures”) (providing, in part, that “[n]o member may accept an order from a customer for execution in the premarket session or post-market session without disclosing to such customer that extended hours trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk. The absence of an updated underlying index value or intraday indicative value is an additional trading risk in extended hours for Derivative Securities Products”). As discussed below and consistent with the approved rules of other exchanges for operating an overnight session, the Exchange is proposing to supplement these disclosures to address additional risks associated with the proposed Night Session. See *infra* note 72 and accompanying text.

¹⁸ See FINRA Rule 2265 (Extended Hours Trading Risk Disclosure).

its trading hours to compete for order flow from these investors, as well as to position itself favorably in the future to participate in markets that trade digital assets.

Overview of Nasdaq’s Proposal for 23/5 Trading

Going forward, Nasdaq proposes to conduct trading 23 hours per day, 5 days per week. It proposes doing so in two trading sessions rather than three. First, it will conduct a “Day” trading session, which will be the same and comprise its existing Pre-Market Hours, Regular Market Hours, and Post-Market Hours trading sessions.¹⁹ The Day Session will commence at 4:00 AM ET and end at 8:00 PM ET, and it will continue to feature both the Nasdaq Opening Cross and the Nasdaq Closing Cross. Second, Nasdaq will conduct a “Night” trading session, which will commence at 9:00PM ET and end at 4:00AM ET the next calendar day.²⁰ All NMS Stocks would be eligible to trade during the proposed Night Session. As we explain below, between 8:00 PM and 9:00 PM ET on each weekday, the Exchange will pause trading on its market to conduct maintenance, testing, and to process those corporate actions, such as mergers, stock splits, and dividends, that will become effective the following trading day. The pause will also allow for market participants to process and clear trades before proceeding to a new trading day. Nasdaq proposes to keep its markets closed during all weekend hours, except that the trading week will commence with a Night Session on Sunday nights at 9:00 PM ET.²¹ The trading week will end at the conclusion of the Day Session on Friday.²²

¹⁹ See Rule Equity 1, Section 1(a)(9).

²⁰ See proposed Rule Equity 1, Section 1(a)(19) (defining the term “Night Session” as “the time between 9:00 p.m. on one calendar day through 4:00 a.m. the next calendar day Sunday through Thursday provided that each such next calendar day is a Business Day.”). To enhance clarity and consistent with approved rules of other national securities exchanges, and specifically 24X, the Exchange proposes to define the term “Business Day” to mean any Monday, Tuesday, Wednesday, Thursday or Friday other than any of the following U.S. holidays if they are celebrated on a Monday, Tuesday, Wednesday, Thursday or Friday: New Year’s Day, Martin Luther King Jr. Day, Presidents’ Day, Good Friday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day ET, or such other U.S. holiday(s) as published by the Exchange from time to time). See proposed Rule Equity 1, Section 1(a)(17).

²¹ See proposed Rule Equity 1, Section 1(a)(19) (defining the term “Night Session”).

²² See proposed Rule Equity 1, Section 1(a)(18). The Exchange proposes a non-substantive change to define the term “Day Session” in proposed Rule 1 Equity 1, Section 1(a)(18) as follows: “[t]he term ‘Day Session’ means the time between 4:00 a.m. ET and 8:00 p.m. ET on Business Days, during which period the Pre-

On a holiday or another day when the Exchange is closed for business, the closure will be effective as of 8:00 PM ET on the calendar day prior to the closure date, and the market will reopen at 9:00 PM ET on the closure date, unless the closure date is a Friday, in which case the market will reopen on Sunday evening at 9:00 PM ET.²³ On a day when Nasdaq closes the market early, it will resume trading at 9:00 PM ET on the same calendar day, unless again, the early closure date is a Friday, in which case the Exchange will resume trading on Sunday evening at 9:00 PM ET.²⁴

Consistent with the approved rules of other national securities exchanges that are similarly proposing to extend their trading hours overnight,²⁵ Nasdaq proposes to launch the operation of its 23/5 market upon the availability of the Securities Information Processor (“SIP”) to operate during the Night Session.²⁶

To facilitate this proposal to extend Nasdaq’s trading hours, Nasdaq proposes to amend numerous rules in its Rulebook. Rather than catalogue all such proposed changes, the majority of

Market Hours, Regular Market Hours and Post-Market Hours are in operation.” The Exchange believes this non-substantive change is designed to facilitate application of the rules by combining references to the three current trading sessions into one broader day trading session for referencing purposes only thereby simplifying the conceptualization and application of the proposed rules. See id.

²³ See proposed Rule Equity 1, Section 1(a)(19).

²⁴ See proposed Rule Equity 1, Section 1(a)(19).

²⁵ See 24X Approval Order, supra note 10, 89 FR at 97105-07 (approving application of 24X to trade overnight provided that it may not begin doing so until the Equity Data Plans have announced their preparedness to collect, consolidate, process, and disseminate quotation and transaction information during the overnight hours; the SEC would nullify approval of 24X rules governing overnight trading if such readiness does not occur within 18 months of the issuance of the approval order); NYSE Arca Approval Order, supra note 1010. See also 24X Rule 1.5(c); NYSE Arca Rule 7.34-E.

²⁶ See proposed Rule Equity 1, Section 1(19) (defining the term “Night Session” and further providing that (1) the Exchange shall not commence operation of the Night Session unless the Equity Data Plans (1) have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session that is equivalent to the mechanism established for Exchange trading hours during Regular Market Hours, and (2) have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to accommodate the Night Session; (2) that prior to commencing operation during the Night Session, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder to amend its rules confirming that the Exchange is able to comply with its obligations under the Exchange Act and the rules thereunder during the Night Session and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session (“Night Session Proposed Rule Change”); and (3) that if the Night Session Proposed Rule Change is not filed within 18 months of the SEC’s approval of this proposed rule change, the Exchange will promptly file a proposed rule change to remove the rules that apply to the Night Session). See id.

which are non-substantive changes to reflect revised trading times, we focus below on describing only those changes that will have a material impact on the operation of the Nasdaq Stock Market.

Before we describe what Nasdaq proposes to change, we first want to make clear what will remain the same. The following aspects of Nasdaq's trading system and procedures will not change when trading equities and ETPs on a 23/5 basis:²⁷

- Listing rules
- Membership rules
- Rules of conduct
- Market Maker obligations
- Ranking, display, priority and decrementation rules
- Disciplinary rules and enforcement
- Opening and Closing Crosses
- Clearly Erroneous protections

The “Day” Trading Session

The new Day trading session will combine and incorporate, without substantive changes, all elements of what are now the Pre-Market Hours,²⁸ Regular Market Hours,²⁹ and Post-Market Hours³⁰ trading sessions. Going forward, the Rules will delineate these sessions as distinct sub-

²⁷ The Exchange will report the best bid and offer on the Exchange to the appropriate network processor, as it currently does today, using the same formats and delivery mechanisms. As is the case today, trades executed and reported outside of Regular Market Hours as proposed will be reported to the appropriate network processor with the “.T” modifier or as otherwise required by the Equity Data Plans. No fee changes are proposed in connection with this proposal.

²⁸ See Rule Equity 1, Section 1(a)(9) (defining the terms “Market Hours,” “Pre-Market Hours,” and “Post-Market Hours”). To effect this change, the Exchange proposes a non-substantive term to define the term “Pre-Market Hours” as that subset of the Day Session comprising the trading session that begins at 4:00 a.m. and continues until 9:30 a.m. on Business Days. See proposed Rule Equity 1, Section 1(a)(20).

²⁹ See Rule Equity 1, Section 1(a)(9). To effect this change, the Exchange proposes a non-substantive change to the current definition of “market hours” to provide that, except as otherwise provided in Rule 4120, the term “Regular Market Hours” means that subset of the Day Session comprising the trading session that begins at 9:30 a.m. and continues until 4:00 p.m. on Business Days. See proposed Rule Equity 1, Section 1(a)(22).

³⁰ See Rule Equity 1, Section 1(a)(9). To effect this change, the Exchange proposes a non-substantive term to define the term “Post-Market Hours” as that subset of the Day Session comprising the trading session that

parts of the Day Session.³¹ During the Day Session, all existing requirements, procedures, behaviors and processes, including those governing the Opening and Closing Crosses, halts, routing, order types, attributes, times-in-force, order entry protocols, connectivity, market data, etc., all will persist in their current form, with only minor conforming changes (described below). For example, Order Type availability and behavior in the Pre-Market Hours of 4:00-9:30 AM ET will remain the same going forward as it is now.³² As another example, limits on Order Type availability in Post-Market trading will continue to apply.³³

The “Night” Trading Session

By contrast to the Day trading session, the proposed Night trading session will be an entirely new trading session that will cover a period of the night in the Eastern Time Zone in the United States in which trading on the Exchange does not now occur.³⁴ As discussed above, all NMS Stocks would be eligible to trade in the proposed Night Session. In many ways, the Night Session will be like the existing Post-Market Hours and Pre-Market Hours trading sessions in that it will feature limited functionality to reflect that only certain rules of Reg. NMS apply and the reduced trading activity. The Night Session will also feature a limited number of Order Types

begins at 4:00 p.m. and that continues until 8:00 p.m. on Business Days except as otherwise provided in Rule 4120. See proposed Rule Equity 1, Section 1(a)(21).

³¹ See proposed Rule Equity 1, Sections 1(a)(18), and (20)-(21).

³² See proposed Rule 4702. In Amendment No. 2 to the proposed rule change, the Exchange updates Exhibit 5 to the proposal to reflect changes to Rule 4702 that were adopted after the date of the initial filing. See, e.g., Notice, supra note 3; Exchange Rule 4702.

³³ See proposed Rule 4702. Consistent with the behavior of such order during extended hours, the Exchange proposes to amend Rule 4702(b)(3)(A), that during the Night Session, as is the case during Pre- and Post-Market Hours, a Non-Displayed Order will be posted at its entered limit price without adjustment. See proposed Rule 4702(b)(3)(A). The Exchange further proposes to amend Rule 4702(b)(4) to provide that, during the Night Session, as is the case today with respect to the Pre- and Post-Market Hours, a Post-Only Order will be processed in a manner identical to Regular Market Hours with respect to locking or crossing Orders on the Nasdaq Book, but will not be cancelled or have its price adjusted with respect to locking or crossing the quotations of other market centers. See proposed Rule 4702(b)(4). The Exchange believes this proposed change is appropriate because the Night Session is effectively an extension of the Exchange’s current extended hours, and this proposed change conforms the behavior of this order during the current extended hours through the hours of operation of the Night Session, as proposed.

³⁴ See proposed Rule 1 Equity, Section 1(a)(19).

and Attributes.³⁵ Only limit orders would be permitted during the Night Session.³⁶ Unpriced orders would not be permitted.³⁷ Moreover, limit orders entered during the Night Session would be subject to Limit Order Protection (“LOP”) as provided under subparagraph (c) of Equity 4, Rule 4757. LOP is a feature of the Nasdaq Market Center that prevents certain Limit Orders at prices outside of pre-set standard limits (“LOP Limit”) from being accepted by the System.³⁸ The

³⁵ As discussed below, all limit orders permitted to trade during Pre-Market Hours will be eligible to trade in the Night Session; provided, however, that order types designated for the opening cross or post-opening trading that are permitted during the Pre-Market Hours will not be accepted during the Night Session. As further discussed below, the following orders will also not be permitted during the Night Session: Company Direct Listing, Extended Trading Close, Midpoint Peg Post-Only, M-ELO, and M-ELO+C. To effect these changes, the Exchange proposes to modify Rule 4702 as follows. The Exchange proposes to modify Rule 4702(b)(1)(A)(“Price to Comply Order”) to add “and during the Night Session” to the sentence currently providing that “During Pre-Market Hours and Post-Market Hours, a Price to Comply Order will be ranked and displayed at its entered limit price without adjustment.” As proposed, during the Night Session, Price to Comply Orders would thus be ranked and displayed in the same manner in which such orders are ranked and displayed during the Pre-Market and Post-Market Hours today. The Exchange further proposes a conforming change to delete the word “and” and add commas in that sentence as appropriate. In addition, the Exchange proposes a non-substantive, technical amendment to the first paragraph of Rule 4702(b)(1)(A) to update the cross-reference to Rule 610(d) of Regulation NMS, governing locking and crossing quotations, to the correct cross-reference, Rule 610(e) of Regulation NMS. With respect to Rule 4702(b)(2)(A)(“Price to Display Order”), the Exchange proposes three changes. First, the Exchange proposes to add “and during the Night Session” to the sentence currently providing that “During Pre-Market Hours and Post-Market Hours, a Price to Display Order will be displayed and ranked at its entered limit price without adjustment.” As proposed, during the Night Session, Price to Display Orders would thus be ranked and displayed in the same manner in which such orders are ranked and display during the Pre-Market and Post-Market Hours today. Second, the Exchange further proposes a conforming change to delete the word “and” and add commas in that sentence as appropriate. Finally, the Exchange proposes to insert “Regular” before “Market Hours” to reflect the proposed renaming of the regular market section under Rule Equity 1, Section 1(a)(22). See proposed Rule 4702.

³⁶ See Rule 4702 (“Order Types”) as proposed.

³⁷ See proposed Rule 4702(a). To effect this change, the Exchange proposes to insert, immediately following the proposed entry addressing “Night Session Ports, Protocols” in Rule 4702(a) the following text: “Unpriced orders are not permitted during the Night Session. Unpriced orders designated for the Night Session will be rejected.” See id.

³⁸ See Rule 4757(c). LOP applies to all Quotes and Orders, including Quotes and Orders that have been modified, where the modification results in a new timestamp and priority. LOP does not apply to Orders with Market and Primary Pegging, Market Maker Peg Orders or Intermarket Sweep Orders. A Midpoint Pegging Order with a discretion price would not be subject to LOP. LOP is operational each trading day, except for orders designated for opening, reopening and closing crosses and initial public offerings. LOP is not operational during trading halts and pauses. LOP would not apply in the event there is no established LOP Reference Price or the National Best Bid, when used as the LOP Reference Price, is equal to or less than \$0. See Rule 4757(c)(i).

LOP Limit is the greater of 10% of the LOP Reference Price³⁹ or \$0.50 for all securities across all trading sessions.⁴⁰

Specifically, the following Order Types will not be available during the Night Session: Supplemental;⁴¹ Market Maker Peg;⁴² Market On Open (“MOO”);⁴³ Limit on Open (“LOO”);⁴⁴ Opening Imbalance Only (“OIO Order”);⁴⁵ Market on Close (“MOC Order”);⁴⁶ Limit on Close

³⁹ The “LOP Reference Price” is the current National Best Bid or Best Offer, the bid for sell orders and the offer for buy orders. See Rule 4757(c)(iii). LOP will reject incoming Limit Orders that exceed the LOP Reference Threshold. Limit Orders will be rejected if the price of the Limit Order is greater than the LOP Reference Threshold for a buy Limit Order. Limit Orders will be rejected if the price of the Limit Order is less than the LOP Reference Threshold for a sell Limit Order. See Rule 4757(c)(v). As provided under Rule 4757(c)(iv), the LOP Reference Threshold for buy orders will be the LOP Reference Price (offer) plus the applicable LOP Limit. The LOP Reference Threshold for sell orders will be the LOP Reference Price (bid) minus the applicable LOP Limit.

⁴⁰ See Rule 4757(c)(ii).

⁴¹ A “Supplemental Order” is an Order Type with a Non-Display Order Attribute that is held on the Nasdaq Book in order to provide liquidity at the NBBO through a special execution process described in Rule 4757(a)(1)(D). A Supplemental Order may be entered at any time during Pre-Market Hours, or Regular Market Hours, but is available for potential execution only during Market Hours. Any Supplemental Orders still on the Nasdaq Book at the conclusion of Market Hours will be cancelled. See Rule 4702(b)(6).

⁴² A “Market Maker Peg Order” is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule Equity 2, Section 5(a)(2). The Exchange is proposing to provide that Market Maker Peg Orders are not available during the Night Session, and, further, that Market Maker Peg Orders designated for the Night Session will be cancelled. See proposed Rule 4702(b)(7)(A).

⁴³ A “Market On Open Order” or “MOO Order” is an Order Type entered without a price that may be executed only during the Nasdaq Opening Cross. Subject to the qualifications provided in Rule 4702(b)(8), MOO Orders may be entered between 4 a.m. ET and immediately prior to 9:28 a.m. ET. An MOO Order will execute only at the price determined by the Nasdaq Opening Cross. See Rule 4702(b)(8).

⁴⁴ A “Limit On Open Order” or “LOO Order” is an Order Type entered with a price that may be executed only in the Nasdaq Opening Cross, and only if the price determined by the Nasdaq Opening Cross is equal to or better than the price at which the LOO Order was entered. Subject to the qualifications provided in Rule 4702(b)(9), LOO Orders may be entered between 4 a.m. ET and immediately prior to 9:28 a.m. See Rule 4702(b)(9).

⁴⁵ An “Opening Imbalance Only Order” or “OIO Order” is an Order Type entered with a price that may be executed only in the Nasdaq Opening Cross and only against MOO Orders, LOO Orders, or Early Market Hours Orders (as defined in Rule 4752). OIO Orders may be entered between 4:00 a.m. ET until the time of execution of the Nasdaq Opening Cross, but may not be cancelled or modified at or after 9:25 a.m. ET. See Rule 4702(b)(10)(A).

⁴⁶ A “Market On Close Order” or “MOC Order” is an Order Type entered without a price that may be executed only during the Nasdaq Closing Cross. Subject to the qualifications provided in Rule 4702(b)(11), MOC Orders may be entered between 4 a.m. ET and immediately prior to 3:55 p.m. See Rule 4702(b)(11).

(“LOC Order”);⁴⁷ Imbalance-Only (“IO Order”);⁴⁸ Company Direct Listing;⁴⁹ Extended Trading Close;⁵⁰ Midpoint Peg Post-Only;⁵¹ Midpoint Extended Life Order (“M-ELO”);⁵² and Midpoint Extended Life Order Plus Continuous Book (“M-ELO+CB Order”).⁵³

⁴⁷ 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, subject to qualifications set out in Rule 4702(b)(12). Subject to qualifications set out in the Rule, LOC Orders may be entered, cancelled, and/or modified between 4 a.m. ET and immediately prior to 3:50 p.m. ET. . See Rule 4702(b)(12).

⁴⁸ An “Imbalance Only Order” or “IO Order” is an Order entered with a price that may be executed only in the Nasdaq Closing Cross and only against MOC Orders or LOC Orders. IO Orders may be entered between 4:00 a.m. ET until the time of execution of the Nasdaq Closing Cross. See Rule 4702(b)(13).

⁴⁹ A “Company Direct Listing Order” or “CDL Order” is a “market order” entered without a price that may be executed only in the Nasdaq Halt Cross for a Direct Listing with a Capital Raise (as defined in Listing Rule IM-5315-2). See Rule 4702(b)(16). The Exchange proposes to amend Rule 4702(b)(16)(A) to provide that CDL Orders are not eligible to participate in the Night Session, and, further, that CDL Orders designated for the Night Session will be rejected. See proposed Rule 4702(b)(16)(A).

⁵⁰ An “Extended Trading Close” or “ETC” Order is an Order Type applicable to Nasdaq-listed securities that may be executed only during the Extended Trading Close and only at the Nasdaq Official Closing Price, as determined by the Nasdaq Closing Cross. See Rule 4702(b)(17). The Exchange proposes to amend Rule 4702(b)(17) to provide that ETC Orders are not eligible to participate in the Night Session, and that ETC Orders designated for the Night Session will be rejected. See proposed Rule 4702(b)(17)(A).

⁵¹ A “Midpoint Peg Post-Only Order” (“MPPO”) is an Order Type with a Non-Display Order Attribute that is priced at the midpoint between the NBBO and that will execute upon entry only in circumstances where economically beneficial to the party entering the Order. The Midpoint Peg Post-Only Order is available during Market Hours only. See Rule 4702(b)(5).

⁵² A “Midpoint Extended Life Order” is an Order Type with a Non-Display Order Attribute that is priced at the midpoint between the NBBO and that will not be eligible to execute until a minimum time period has passed after acceptance of the order by the System. Eligible Midpoint Extended Life Orders may only execute against other eligible Midpoint Extended Life Orders and M-ELO+CB Orders. See Rule 4702(b)(14). The Exchange proposes to amend subparagraph (A) of Rule 4702(b)(14) to provide that Midpoint Extended Life Orders are not eligible to participate in the Night Session, and that Midpoint Extended Life Orders designated for the Night Session will be rejected. The Exchange also proposes to modify subparagraph (B) of Rule 4702(b)(14) (addressing Order Attributes that may be assigned to a Midpoint Extended Life Order) to provide, consistent with the foregoing proposed changes, that “Midpoint Extended Life Orders designated for the Night Session will be rejected.” See proposed Rule 4702(b)(14)(A)-(B).

⁵³ A “Midpoint Extended Life Order Plus Continuous Book” or “M-ELO+CB” is an Order Type that has all of the characteristics and attributes of a Midpoint Extended Life Order, except that a M-ELO+CB that satisfies a specified holding period is eligible to execute (at the midpoint of the NBBO) against other eligible M-ELO+CBs, eligible Midpoint Extended Life Orders, and as described in the rule, Non-Displayed Orders with Midpoint PEGGING resting on the Exchange’s Continuous Book. See Rule 4702(b)(15). The Exchange proposes to amend subparagraph (A) of Rule 4702(b)(15) to provide that M-ELO+CB orders are not eligible to participate in the Night Session, and that M-ELO+CB orders designated for the Night Session will be rejected. See proposed Rule 4702(b)(15)(A).

As proposed, orders for the Night Session may be entered into the System (or previously entered orders cancelled or modified) from 9:00 PM ET until 4:00 AM ET in accordance with the hours of operation for the Night Session.⁵⁴

Similarly, the following Order Attributes⁵⁵ will not be available during the Night Session: Primary Pegging;⁵⁶ Market Pegging;⁵⁷ Midpoint Pegging;⁵⁸ and Discretion (Pegging).⁵⁹ With respect to Time-in-Force⁶⁰ order attributes, orders entered during the Night Session that are

⁵⁴ To effect this change, the Exchange proposes to provide in Rule 4756(a)(3) that orders for the Night Session may be entered into the System (or previously entered Orders cancelled or modified) from 9 p.m. until 4:00 a.m. ET in accordance with the hours of operation for the Night Session. See proposed Rule 4756(b). The Exchange further proposes to provide in Rule 4120(a)(10)(C) that the Exchange will begin accepting orders for the Night Session at 9:00 PM ET in accordance with Rule 4756 and will trade thereafter through the Night Session. Similarly, and with respect to entry of quotes by Nasdaq Market Makers, the Exchange proposes to provide that during the Night Session, Nasdaq Market Makers and Nasdaq ECNs can enter quotes into the System from 9:00 PM ET to 4:00 AM ET. See proposed Rules 4756(a)(10)(C), 4756(b).

⁵⁵ In Amendment No. 2 to the proposed rule change, the Exchange updates Exhibit 5 to the proposal to reflect changes to Rule 4703 that were adopted after the date of the initial filing. See, e.g., Notice, supra note 3; Exchange Rule 4703.

⁵⁶ See Rule 4703(d). Pegging is a)n Order Attribute that allows an Order to have its price automatically set with reference to the National Best Bid and Offer; provided, however, that if Nasdaq is the sole market center at the Best Bid or Best Offer (as applicable), then the price of any Displayed Order with Primary Pegging will be set with reference to the highest bid or lowest offer disseminated by a market center other than Nasdaq. Pegging is available only during Market Hours. Nasdaq offers three varieties of Pegging: Primary Pegging, Market Pegging, and Midpoint Pegging. Primary Pegging means Pegging with reference to the Inside Quotation on the same side of the market. See id.

⁵⁷ Market Pegging means Pegging with reference to the Inside Quotation on the opposite side of the market. Pegging is available only during Regular Market Hours. See Rule 4703(d).

⁵⁸ See Rule 4703(d). Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer. Pegging is available only during Regular Market Hours. See id.

⁵⁹ Discretion is an Order Attribute under which an Order has a non-displayed discretionary price range within which the entering Participant is willing to trade; such an Order may be referred to as a “Discretionary Order.” The Discretion Order Attribute may be combined with the Pegging Order Attribute, in which case either the price of the Order or the discretionary price range or both may be pegged in the ways described in Rule 4702(d) with respect to the Pegging Order Attribute. As discussed above, however, and consistent with its proposal with respect to the Pegging order attribute during the Night Session, the Exchange proposes to provide that during the Night Session, the Discretion attribute may not be combined with the Pegging Order attribute. See proposed Rule 4703(g) (providing that the Discretion order attribute is available during the Night Session, provided however, that during the Night Session, the Discretion order attribute may not be combined with the Pegging Order attribute, and further, that orders designated for the Night Session that combine the Discretion attribute with a Pegging attribute will be rejected).

⁶⁰ The “Time-in-Force” assigned to an Order means the period of time that the Nasdaq Market Center will hold the Order for potential execution. Participants specify an Order's Time-in-Force by designating a time at which the Order will become active and a time at which the Order will cease to be active. See Rule 4702.

designated to deactivate after 4:00 AM ET will deactivate at the conclusion of the Night Session at 4:00 AM ET.⁶¹

However, the Night Session will differ from Post-Market Hours and Pre-Market Hours trading in several respects. Below is a summary of the key functionality of the Night Session as it will be available at its launch date.

- Connectivity: The Exchange will require market participants to use ports specifically designated for use during the Night Session.⁶² Market participants that have already purchased ports from the Exchange may continue using them to trade during the Day Session, but if participants wish to trade during the Night Session, then they will need to use a separate Night Session port to do so.⁶³ The Exchange proposes this requirement to use Night Session ports because the Exchange will run a distinct instance of its Trading System during the Night Session, and ports used for Day

⁶¹ To effect this change, the Exchange proposes to amend Rule 4703(a) as follows. Rule 4703(a) currently provides that available times for deactivating orders include “a specific time identified by the Participant; provided, however, that an Order specifying an expire time beyond the current trading day will be cancelled at the end of the current trading day.” The Exchange proposes to amend that provision to enhance clarity with respect to available times for deactivating orders as well as to address available times for deactivating orders during the proposed Night Session. Specifically, the Exchange proposes to amend this provision to provide that available times for deactivating orders include “a specific time identified by the Participant; provided, however, that an Order specifying an expire time beyond 8:00 p.m. ET will be cancelled at the conclusion of the Day Session at 8:00 p.m. and that an Order entered during the Night Session specifying an expire time beyond 4:00 a.m. ET will expire at the conclusion of the Night Session at 4:00 a.m. ET.” The Exchange also proposes certain conforming changes to delete from that same provision obsolete terms including “the current trading day” and “end of current trading day.” See proposed Rule 4703(a). The Exchange further proposes to amend subparagraph (2) of Rule 4703 to delete the sentence that reads “[a]n Order that is designated to deactivate at 8:00 p.m. may be referred to as having a Time in Force of ‘System Hours Day’ or ‘SDAY’” and replace it with the following: “[a]n Order with a Time in Force of ‘System Hours Day’ or ‘SDAY’ will deactivate at 8:00 p.m., however, an Order with a Time in Force of ‘System Hours Day’ or ‘SDAY’ designated for participation in the Night Session will deactivate at 4:00 a.m.” See proposed Rule 4703(a)(2). The Exchange believes these proposed changes are appropriate to provide greater clarity with respect to the operation of SDAY orders during the proposed Day Session as well as address how the SDAY TIF would operate during the Night Session as proposed.

⁶² See proposed Rule 4702(a) (providing that, to trade in the Night Session, market participants will be required to use ports specifically designated for use during the Night Session, and that ports used for the Day Session will not connect market participants to trading systems for the Night Session). The Exchange further proposes to provide that the following protocols will be available during the Night Session: OUCH 5, Core FIX, and FIX. The Exchange proposes to offer OUCH 5, the latest version of the OUCH protocol, during the Night Session. For sessions other than the Night Session, the Exchange also offers legacy OUCH versions. The OUCH Order entry protocol is a proprietary protocol that allows subscribers to quickly enter orders into the System and receive executions. See Securities Exchange Act Release No. 95768 (September 14, 2022), 87 FR 57534 (September 20, 2022).

⁶³ See proposed Rule 4702(a).

Session will only be capable of connecting to the instance of the Trading System used to operate the Day Session. Day ports will be operational from 4:00AM ET through 8:00 PM ET, and Night Session ports will be operational from 9:00 PM ET through the following day at 4:00 AM ET.⁶⁴

- Times-in-Force: As noted above, the Exchange will employ the Time-in-Force Order Attribute during the Night Session as it does now during the Day Session, with two changes designed to reflect the Exchange’s proposed hours of operations. First, the Exchange proposes to (1) amend Rule Equity 1, Section 1(a)(9) to update the definition of the term “System Hours”—which is currently defined as the hours of 4:00 AM ET through 8:00 PM ET—to reflect the Exchange’s proposed hours of operation,⁶⁵ and (2) amend Rule 4703(a) to provide that when an Order may be deactivated at the end of “System Hours,” the term “System Hours” refers to the period from 9:00 PM ET to the following calendar day at 8:00 PM ET, in accordance with the definition of “System Hours” in Rule Equity 1, Section 1(a)(9).⁶⁶
- Trading Halts: Consistent with the approved rules of another national securities exchange,⁶⁷ the Exchange proposes to provide in Rule 4120(a)(10)(D) that during the Night Session, if the primary listing market, including Nasdaq when Nasdaq is the

⁶⁴ To effect this change, the Exchange proposes to provide that Night Session ports will be operational from 9:00 p.m. ET through the following day at 4:00 a.m. ET in accordance with the definition of Night Session and that Day ports will be operational from 4:00 a.m.ET through 8:00 p.m. ET on Business Days. See proposed Rule 4702(a).

⁶⁵ See proposed Rule 1, Equity 1, Section 1(a)(9). As proposed, the term “System Hours” would mean the 23-hour time period beginning at 9:00 p.m. ET on one calendar day and ending at 8:00 p.m. ET (or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early) on the next calendar day for the period from Sunday at 9:00 p.m. ET through Friday at 8:00 p.m. ET in accordance with definitions of Day Session (including the Pre-Market Hours, Regular Market Hours, Post-Market Hours) and Night Session. The Exchange further proposes to modify Equity 1, Section 1(a)(9) to delete the definitions of “Market Hours,” “Pre-Market Hours” and “Post-Market Hours,” as the Exchange is proposing to define each such term separately elsewhere in Rule Equity 1, Section 1.

⁶⁶ See proposed Rule 4703(a). As proposed, the Exchange would provide that the available times for deactivating an order include, among others, at the end of System Hours, in accordance with the definition of “System Hours” in Rule Equity 1, Section 1(a)(9). See proposed Rule 4703(a).

⁶⁷ 24X Rule 11.15(c)(5).

primary listing market, determines to halt trading, or delay commencement of trading, in one of its listed securities in accordance with such primary listing market's rules (e.g., with regard to material corporate actions with respect to a particular security (i.e., corporate actions that may affect a stock price, stock additions and subtractions, and similar actions) or material news announcements), the Exchange will halt trading, or delay the commencement of, trading (as applicable), in such security until trading resumes on the primary listing market for the security. Further, the Exchange proposes to provide that if trading in a security is halted by the primary listing market, including Nasdaq when Nasdaq is the primary listing market, before the commencement of the Night Session and continuing into the Night Session, or during the Night Session, the Exchange will halt trading in the security until trading resumes on the primary listing market for the security.⁶⁸

- Clearly Erroneous Transactions: Consistent with the regulatory framework applied to national securities exchanges⁶⁹ with respect to the use of clearly erroneous rules in extended hours sessions, the Exchange proposes to rely on its clearly erroneous rules⁷⁰ during the Night Session. The Exchange believes this proposed change is

⁶⁸ See proposed Rule 4120(a)(10)(D). Generally, regardless of trading session, when a halt has been declared on the primary listing market, the Exchange will also halt trading automatically in the subject security on the Exchange. Exchange staff will be available during the proposed Night Session in order to maintain a fair and orderly market, make any necessary rulings or take any action that may be necessary. Similarly, Exchange staff will be available if any action such as declaration of a halt in a Nasdaq primary symbol were necessary. Moreover, to the extent material corporate news is released during the Night Session and the primary listing market does not impose a halt, the requirements of proposed Rule Equity 2, Section 20 and proposed Rule Equity 2, Section 20(8) that disclosures be provided to customers relating to the risks associated with the exaggerated effect of news announcements and the additional risks of trading during the Night Session, respectively, will help ensure that market participants, including investors, are informed about the potential risks associated with trading during the Night Session. The Exchange also proposes a technical, non-substantive conforming change to renumber subparagraphs (10)-(15) of current Rule 4120(a) as subparagraphs (11)-(16).

⁶⁹ See, e.g., CboeBZX Rule 11.17; Nasdaq Equity 11, Rule 11890; NYSE Arca Rule 7.10-E; 24X Rule 11.14.

⁷⁰ See proposed Rule 11890. To effect this change, the Exchange proposes to amend Equity 1, Rule 11890 ("Clearly Erroneous Transactions") to incorporate the Night Session as appropriate throughout the various provisions in the rule. Specifically, the Exchange proposes to insert references to the Night Session in the following provisions: romanette (iii) of Rule 11890(a)(2)(A) (with respect to filing time periods); subparagraph (2) of Rule 11890(C), including the table under romanette (i) (with respect to eligibility for review) and romanettes (ii) and (iii) thereunder; subparagraph (3) of Rule 11890(a)(3)(D)(3) (with respect

appropriate because the use of clearly erroneous executions rules during the Night Session will help ensure that there is a consistent, market-wide approach across the extended hours trading sessions of all national securities exchanges.

- Surveillance: During the Night Session, the Exchange will have a dedicated team to conduct real-time surveillance, process Clearly Erroneous filings, and as needed, implement trading halts. Real-time surveillance for the Night Session will be similar to real-time surveillance in other sessions today. Real-time surveillance includes monitoring for unusual activity, the detection of potential manipulation and other market abuse, as well as coordination with Nasdaq departments and member firm representatives as necessary to monitor and or resolve unexpected matters. The Exchange will utilize the Nasdaq Market Surveillance system to electronically monitor and alert trading anomalies. The Clearly Erroneous process and trading halts for listed securities will be handled by the Exchange surveillance staff, similar to all other sessions, and in accordance with the rules applicable to Clearly Erroneous filings and Trading Halts.
- Market Data: The Exchange proposes to disseminate the same market data information during the Night Session as are available during the Day Session.
- Risk Disclosures: In accordance with Equity 2, Section 20, the Exchange proposes to supplement its current customer disclosures concerning risks associated with trading during Pre-Market Hours and Post-Market Hours to add six additional potential risks associated with trading during the Night Session based on the approved rules of 24X and NYSE Arca.⁷¹ As proposed, the Exchange would require that its members make certain disclosures to investors concerning risks associated with trading during Pre-

to trades on the Nasdaq Bond Exchange); and romanette (i) of Rule 11890(b) (with respect to procedures for reviewing transactions on Nasdaq's own motion).

⁷¹ See, e.g., 24X Approval Order, supra note 10; 24X Rule 3.21 ("Customer Disclosures"); NYSE Arca Approval Order, supra note 10; NYSE Arca Rule 7.34-E(T) ("Trading Sessions").

Market Hours, Post-Market and the Night Session.⁷² These proposed disclosures will enhance transparency by warning customers that trading during these extended hours involves material trading risks, as outlined in the proposed rules.⁷³

- Equity Data Plans: Consistent with the approved rules of 24X and NYSE Arca,⁷⁴ the Exchange proposes to provide that the Exchange would not commence operation of the Night Session unless the Equity Data Plans (as proposed to be defined in Rule Equity 1, Section 1(a)(16))⁷⁵ have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during Extended Trading Hours that is equivalent to the mechanism established for Regular Market Hours, and (2) have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to accommodate the Night Session.⁷⁶

⁷² See proposed Rule Equity 2, Section 20 (8)(A)-(F) (providing, in part, that trading during the Night Session may present risks, including (1) the risk of trading during hours in which the primary listing market may not be open, (2) the risk of trading during hours in which there may be limited or different regulatory protections, (3) the risk of having limited trading alternatives, (4) risks related to continuous trading, (5) the risk of trading during hours in which financial market infrastructure companies may be closed, (6) the risk of trading because the Night Session is novel and may presents additional unforeseen risks beyond those enumerated in the proposed rules, and (7) additional unforeseen risks in addition to those discussed above).

⁷³ See proposed Rule Equity 2, Section 20.

⁷⁴ See 24X Rule 1.5(c); NYSE Arca Rule 7.34-E.

⁷⁵ As proposed, the term “Equity Data Plans” means the effective national market system plans that govern the collection, consolidation, processing and dissemination of equity market data for NMS stocks and oversee the exclusive securities information processors (“SIPs”), including (1) the Consolidated Tape Association Plan (“CTA Plan”), (2) the Consolidated Quotation Plan (“CQ Plan”), (3) the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq- Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (“UTP Plan”), (4) the CT Plan established by the Limited Liability Company Agreement of CT Plan LLC, and (5) any successor thereto to the named Plans. See proposed Rule Equity 1, Section 1(a)(16).

⁷⁶ Also consistent with the approved rules of 24X and NYSE Arca, the Exchange further proposes to provide that, prior to commencing operation during the Night Session, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder to amend its rules confirming that the Exchange is able to comply with its obligations under the Exchange Act and the rules thereunder during the Night Session and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session (“Night Session Proposed Rule Change”). If the Night Session Proposed Rule Change is not filed within 18 months of the Commission’s approval of this proposed rule change, the Exchange will promptly file a proposed rule change to remove the rules that apply to the Night Session. The Exchange will submit all quotes and trades that are generated in the Night Session to the consolidated quote and trade systems maintained by the SIPs for public dissemination. Accordingly, once the proposed Night Session is operative, quotes and

Transition from Night to Day Session

The following describes proposed procedures for the Exchange to transition from a Night Session to a Day Session at 4:00AM ET each weekday. At the conclusion of the Night Session at 4:00 AM ET, all orders outstanding on the Nasdaq Book as of 4:00 AM ET will be canceled.⁷⁷ The Exchange currently begins accepting new orders for the Pre-Market Session at 4:00 AM ET,⁷⁸ and, as proposed, this would remain unchanged.

Weekday 8:00-9:00 PM ET Trading Pause

As proposed, upon conclusion of the Day Session on each weekday, at 8:00 PM ET, trading on the Exchange will pause for one hour.⁷⁹ It will resume with commencement of the Night Session at 9:00 PM ET.⁸⁰ All orders outstanding on the Nasdaq Book as of 8:00 PM ET will be canceled.⁸¹ The Exchange will begin accepting new orders at 9:00 PM, Sunday through Thursday and will trade thereafter throughout the Night Session.⁸² At the conclusion of the Night

trades will be made available to the investing public in the same manner that quotes and trades are currently made available. See, e.g., proposed Rule Equity 1, Section 1(a)(19); 24X Rule 1.5(c); NYSE Arca Rule 7.34-E.

⁷⁷ To effect this change, the Exchange proposes to provide in proposed Rule 4120(a)(10)(C) that at the conclusion of the Night Session at 4:00 AM ET, all orders outstanding in the Nasdaq Book as of 4:00 AM ET shall be cancelled. See proposed Rule 4120(a)(10)(C).

⁷⁸ See Rule 4752(b).

⁷⁹ See proposed Rule 4120(a)(10). To effect this change, the Exchange proposes to provide in proposed Rule 4120(a)(10) that the Exchange shall halt trading at the conclusion of the Day Session at 8:00 p.m. ET and resume trading with the commencement of the Night Session at 9:00 p.m. ET, on Monday, Tuesday, Wednesday and Thursday, in accordance with Rule Equity 1, Sections 1(a)(18)-(19) of these rules. As further proposed, weekday trading would commence with a Night Session beginning at 9:00 p.m. ET, on Sunday. See proposed Rule 4120(a)(10).

⁸⁰ See proposed Rule 4120(a)10. Consistent with the approved rules of another national security exchange, and specifically 24X Rule 11.15(c)(4), the Exchange proposes to provide that the Exchange may pause trading during the Night Session at such other times as the Exchange in the exercise of its regulatory functions may determine is appropriate, and that the Exchange will announce in advance when such trading will pause and when it will resume pursuant to this paragraph. See, e.g., proposed Rule 4120(a)(10)(A); 24X Rule 11.15(c)(4).

⁸¹ See proposed Rule 4120(a)(10)(B). To effect this change, the Exchange proposes to provide in proposed Rule 4120(a)(10)(B) that orders outstanding on the Nasdaq Book as of 8:00 PM ET shall be cancelled. See id.

⁸² See proposed Rule 4120(a)(10)(C). To effect this change, the Exchange proposes to provide that the Exchange will begin accepting orders for the Night Session at 9:00 PM ET in accordance with Rule 4756 and will trade thereafter throughout the Night Session. As discussed above, the Exchange is also proposing to provide in Rule 4756(a)(3) that Orders for the Night Session may be entered into the System (or previously entered Orders cancelled or modified) from 9 p.m. until 4:00 a.m. ET in accordance with the hours of operation for the Night Session. See proposed Rule 4756(a)(3).

Session at 4:00 AM ET, all orders outstanding in the Nasdaq Book as of 4:00 AM ET will be cancelled.⁸³

The trading pause will mitigate systemic risk to the markets and promote resiliency by providing time for both the Exchange and market participants to conduct maintenance and testing. During the pause, for example, the Exchange will shift its operations to a second instance of its System that will run the Night Session.

Finally, the trading pause will allow the Exchange to process, or to begin processing any corporate actions that may be pending for the next trading day, including stock splits, dividends, name changes, and distributions. The Exchange notes that certain corporate actions will likely require halts beyond the trading pause. For example, dividends must be paid on particular calendar days, which will not, going forward, always coincide with the commencement of new trading days on Nasdaq at 9:00PM ET. Accordingly, Nasdaq will likely need to halt trading in such securities until sometime during the next calendar date.

Related Proposed Rule Changes

As discussed above, the Exchange proposes to trade NMS stocks and ETPs on a 23/5 basis. To effect this change with respect to certain ETPs, the Exchange proposes to amend certain rules under the Nasdaq 5700 Series as follows. The Exchange proposes to provide that, in addition to the Regular Market Hours and the Pre-and Post-Market Hours, as it does today, Nasdaq may designate the following for trading during the Night Session: Exchange Traded Fund Shares,⁸⁴ Portfolio Depositary Receipts listed pursuant to Rules 5705(a)(4) and (5),⁸⁵ and

⁸³ See proposed Rule 4120(a)(10)(C) (proposing to provide, in part, that at the conclusion of the Night Session at 4:00 AM ET, all orders outstanding in the Nasdaq Book as of 4:00 AM ET shall be cancelled).

⁸⁴ See proposed Rule 5704(b)(1)(C). To effect this change, the Exchange proposes to insert the words “or Night Session, as such terms are defined in Rule 4120” immediately following the description of the Pre- and Post-Market Hours sessions in Rule 5704(b)(1)(C). The Exchange also proposes to make related conforming changes to remove obsolete language describing the current trading sessions and substitute therefor for the proposed terms for each such trading session. See proposed Rule 5704(b)(1)(C).

⁸⁵ See proposed Rule 5705(a)(7). To effect this change, the Exchange proposes to insert the words “or Night Session, as such terms are defined in Rule 4120” immediately following the description of the Pre- and Post-Market Hours sessions in Rule 5705(a)(7) and make related conforming changes to remove obsolete

Index Fund Shares.⁸⁶ The Exchange believes this proposed change would remove impediments to and perfect the mechanism of a free and open market, and in general, protect investors and the public interest because the Exchange has rules in place to facilitate the trading of such ETPs during all trading sessions and may designate such ETPs for trading during all extended hours sessions, of which the proposed Night Session would constitute part.

Impact on Exchange Fees

The Exchange will address any impact of the rule proposal on its schedule of credits and fees, and its incentive programs, in a subsequent rule filing.

Clarifying, Conforming and Other Non-Substantive Changes

The Exchange proposes to amend current Equity 1, Section 1 to add three clarifying definitions. First, the Exchange proposes to define “Equity Data Plans” to mean the effective national market system plans that govern the collection, consolidation, processing and dissemination of equity market data for NMS stocks and oversee the exclusive securities information processors (“SIPs”), including (1) the Consolidated Tape Association Plan (“CTA Plan”), (2) the Consolidated Quotation Plan (“CQ Plan”), (3) the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq- Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (“UTP Plan”), (4) the CT Plan established by the Limited Liability Company Agreement of CT Plan LLC, and (5) any successor thereto to the named Plans.⁸⁷ Second, the Exchange proposes to define “Business Day” to mean any Monday, Tuesday, Wednesday, Thursday or Friday other than any of the following U.S. holidays if they are

language describing the current trading sessions and substitute therefor for the proposed terms for each such trading session. See proposed Rule 5705(a)(7).

⁸⁶ See proposed Rule 5705(b)(7). To effect this change, the Exchange proposes to insert the words “or Night Session, as such terms are defined in Rule 4120” immediately following the description of the Pre- and Post-Market Hours sessions in Rule 5705(b)(7) and make related conforming changes to remove obsolete language describing the current trading sessions and substitute therefor for the proposed terms for each such trading session. See proposed Rule 5705(b)(7).

⁸⁷ See proposed Rule Equity 1, Section 1(a)(16).

celebrated on a Monday, Tuesday, Wednesday, Thursday or Friday: New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Good Friday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day ET, or such other U.S. holiday(s) as published by the Exchange from time to time.⁸⁸ Finally, the Exchange proposes to define “Extended Hours” to mean that, unless otherwise specified in Exchange rules, the term means the hours outside of Regular Market Hours and specifically comprising the hours during which Pre-Market Hours, Post-Market Hours, and Night Session are in operation.⁸⁹

The Exchange also proposes the following conforming, non-substantive changes.

- The Exchange proposes to amend the following rules to replace references to “Market Hours,” “regular market hours,” and similar references used to designate the trading session operating from 9:30 AM ET through 4:00 PM ET with the proposed term “Regular Market Hours,” and make related conforming changes: Rule Equity 1, Section 1(a)(9); Rule Equity 2, Section 20; and Rules 4120, 4702, 4703,⁹⁰ 4752, 4753, 4754,⁹¹ IM-5250-1,⁹² 5704, 5705, 5710, 5711, 5713, 5745, 5760, 5810(b), 5840, and 11890.

⁸⁸ See proposed Rule Equity 1, Section 1(a)(17).

⁸⁹ See proposed Equity 1, Section 1(a)(23).

⁹⁰ The Exchange proposes one additional non-substantive change to Rule 4703(l) to correct a typographical error. Rule 4703(l) incorrectly refers to Opening Imbalance Only Orders as “OI Orders” in one instance and “IO Orders” in another. The Exchange proposes to amend that subparagraph of Rule 4703 to revise such references as necessary to correctly reflect the defined term for such orders: “OIO Orders.” See Rule 4702(a)(10)(A) (defining the term “Opening Imbalance Only Order” or “OIO Order”). The Exchange believes this administrative non-substantive change is appropriate to enhance clarity and thus facilitate the use of and compliance with the Exchange’s rules.

⁹¹ The Exchange proposes an additional non-substantive change to Rule 4754(b) to delete the “S” from “EST” and thus use the acronym “ET” as defined in Rule Equity 1, Section 1(a)(8). See Rule Equity 1, Section 1(a)(8) (providing that the term “ET” means Eastern Standard Time or Eastern Daylight Time, as applicable).

⁹² The Exchange further proposes a non-substantive, clarifying change to Rule IM-5250-1. Specifically, the Exchange proposes to delete the term “market hours” from the second paragraph of the section titled “Notification to Nasdaq MarketWatch Department and replace it with the more precise time range “7:00 a.m. to 8:00 p.m.” The Exchange believes this clarifying change is appropriate to align this paragraph with the preceding one which requires that material news reported outside the hours of 7:00 a.m. to 8:00 p.m. be disclosed prior to 6:50 a.m. under the rule.

- The Exchange proposes to amend the following rules to replace references to terms such as “Pre-Market Session,” “Early Market Hours,” and similar terms used to designate the pre-market trading session operating from 4:00 AM ET through 9:30 AM ET with the defined term “Pre-Market Hours” and make related conforming changes: Rule Equity 2, Section 20, and Rules 4120, 4702, 4703, 4753, 5704, 5705, and 11890.
- The Exchange proposes to amend the following rules to replace references to terms such as “Post-Market Session,” “Extended Market Hours,” and similar terms used to designate the trading session operating from 4:00 PM ET through 8:00 PM ET, with the term “Post-Market Hours” and make related conforming changes: Rule Equity 2, Section 20, and Rules 4120, 4702, 4703, 4753, 4755,⁹³ 5704, 5705, and 11890.
- The Exchange proposes to amend the following rules to replace references to “extended hours” with the term “Extended Hours,” as defined in Rule 1, Equity Section 1(a)(23): Rule Equity 2, Section 20, and Rule 4703.
- The Exchange would also make certain conforming changes as follows. First, the Exchange proposes to delete the obsolete reference to “4:00 a.m. to 8 p.m. Eastern Time on each business day” in Rule Equity 2, Section 8, and substitute therefor the term “System Hours,”⁹⁴ so as to update and align this rule with the proposed hours of operation for the Exchange. The Exchange proposes to make non-

⁹³ In this Amendment No.2 to the proposal, the Exchange is proposing one non-substantive technical change to Rule 4755 to update the cross reference to the definition of “Post-Market Hours.” Specifically, the Exchange proposes to delete the reference to Rule Equity 1, Section 1(a)(9) and replace it with a reference to proposed Rule Equity 1, Section 1(a)(21) (proposing to define the term “Post-Market Hours”). The Exchange believes this proposed non-substantive change is appropriate to accurately cross reference the definition of “Post-Market Hours” as proposed and thus facilitate the understanding and use of the Exchange’s rules. The Exchange is proposing no other changes to Rule 4755.

⁹⁴ See, e.g., proposed Rule Equity 2, Section 8; proposed Rule Equity 1, Section 1(a)(9) (defining the term “System Hours”). To effect this change, the Exchange proposes to delete, from Rule Equity 2, Section 8, the words “from 4:00 a.m. to 8:00 p.m. Eastern. Time on each business day” and substitute therefor the words “during System Hours.” See proposed Rule Equity 2, Section 8.

substantive changes to Rule 4120⁹⁵ as follows. The Exchange proposes to amend subparagraph (B) of Rule 4120(b)(4) to (1) to conform the current terms “Pre-Market Session,” “Post-Market Session,” and “Market Hours” to the proposed terms “Pre-Market Hours,” “Post-Market Hours,” and “Regular Market Hours,” as proposed Rule Equity 1, Sections 1(a)(20)-(22), respectively.⁹⁶ The Exchange further proposes to add in new subparagraphs (F)-(G) of Rule 4120(b)(4) that the terms “Day Session” and “Night Session” shall have the same meaning as defined in Rule Equity 1, Sections 1(a)(18) and (19), respectively. Consistent with how the Exchange operates during the Post-Market Hours, the Exchange also proposes to provide in Rule 4120(a)(3)(A), that if an applicable Required Value⁹⁷ continues not to be calculated or widely disseminated after the close of the Regular Market Hours, Nasdaq may trade a Derivative Securities Product⁹⁸ during the Night

⁹⁵ In Amendment No. 2 to the proposed rule change, the Exchange updates Exhibit 5 to the proposal to reflect changes to Rule 4120 that were adopted after the date of the initial filing. See, e.g., Notice, supra note 3; Exchange Rule 4120.

⁹⁶ See proposed Rule 4120(b)(4)(B)-(D). The Exchange notes that for purposes of Rule 4120 and in connection with the trading of certain derivative securities products as provided thereunder, the definitions of “Post-Market Hours” and “Regular Market Hours” differ from those proposed in Equity 1, Section 1 only in that (1) “Regular Market Hours,” as defined in Rule 4120, run until “4:00 p.m. or 4:15 p.m.” on Business Days (rather than until 4:00 p.m. on Business Days as provided in proposed Rule Equity 1 Section 1(a)(22)) and (2) “Post-Market Hours,” as defined in Rule 4120 begin at “4:00 p.m. or 4:15 p.m.” on Business Days (rather than at 4:00 p.m. on Business Days, as proposed in Rule Equity 1, Section 1(a)(21)). The Exchange is not proposing to modify such definitions under Rule 4120(b).

⁹⁷ “Required Value” means (i) the value of any index or any commodity-related value underlying a Derivative Securities Product, (ii) the indicative optimized portfolio value, intraday indicative value, or other comparable estimate of the value of a share of a Derivative Securities Product updated regularly during the trading day, (iii) a net asset value in the case of a Derivative Securities Product for which a net asset value is disseminated, and (iv) a Disclosed Portfolio in the case of a Derivative Securities Product that is a series of Managed Fund Shares, as defined in Rule 5735, or Managed Trust Securities, as defined in Rule 5711(j), and a Composition File in the case of a Derivative Securities Product that is a series of NextShares, as defined in Rule 5745. See Rule 4120(b)(4)(E).

⁹⁸ See proposed Rule 4120(b)(3)(A). “Derivative Securities Product” means a series of Exchange Traded Fund Shares, Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, NextShares, Trust Issued Receipts, or Proxy Portfolio Shares (as defined in Rules 5704, 5705, 5735, 5745, 5720, and 5750 respectively), a series of Commodity-Related Securities (as defined in Equity 10, Section 8), securities representing interests in unit investment trusts or investment companies, Index-Linked Exchangeable Notes, Equity Gold Shares, Trust Certificates, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Securities, or Currency Warrants (as defined in Rule 5711(a) - (k)), or any other UTP Derivative Security (as defined in Rule 5740). See Rule 4120(b)(4)(A).

Session only if the listing market traded the Derivative Securities Product until the close of its regular trading session without a halt.⁹⁹

Finally, the Exchange proposes a technical, non-substantive conforming change to renumber subparagraphs (10)-(15) of Rule 4120(a) as subparagraphs (11)-(16).

II. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰¹ 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.

It is consistent with the Act to permit members of the Exchange to trade securities on an extended basis, for 23 hours per day, 5 days per week. As explained above, investors increasingly trade securities, along with digital assets, on a global basis. Investors located outside of the United States in places like Asia presently cannot trade on Nasdaq during what constitutes their regular trading hours, as the Exchange is closed during that period. Even among U.S.-based investors, demand is growing for exchanges to expand their market hours to accommodate overnight trading. Accordingly, investors seeking access to U.S. equities and ETP markets during overnight and weekend hours must resort to trading on a handful of ATs that offer round-the-clock trading. Nasdaq's proposal will enable Nasdaq to serve these investors and to

⁹⁹ To effect this change, the Exchange proposes to amend Rule 4120(b)(3)(A) to insert, immediately after "Post-Market Session," the words "and during the Night Session." The Exchange also proposes a non-substantive to conform the term "Post Market Session" to the proposed term "Post-Market Hours" by deleting the word "Session" and substituting therefor the word "Hours." As described below, the Exchange is proposing non-substantive changes to conform terms "Pre-Market Session," Post-Market Session, and "Market Hours" in each instance such terms are used within Rule 4120 with the proposed terms "Pre-Market Hours," "Post-Market Hours," and "Regular Market Hours," respectively. The Exchange believes that establishing uniform names for its trading sessions, as proposed, is appropriate because consolidating the varying terms for each such session into one defined and uniform term for each such session would facilitate the understanding of and compliance with the Exchange's rules. See, e.g., proposed Rule 4120; proposed Rule Equity 1, Section 1(a)(20)-(22).

¹⁰⁰ 15 U.S.C. 78f(b).

¹⁰¹ 15 U.S.C. 78f(b)(5).

compete with ATSS, foreign securities markets. and other markets for their order flow. It will also enable the Exchange to compete with new and incumbent exchanges which the SEC has approved to trade overnight in a similar manner.

The Exchange's proposal to operate on an extended hours basis is largely based on Nasdaq's longstanding rules for extended hours trading, as well as the approved rules of other national securities exchanges also seeking to operate on a 23/5 basis. As proposed, these rules are designed to address potential differences in trading compared to regular trading hours, as well as to enhance transparency and investor protections. For example, the Exchange is proposing to supplement the existing required customer disclosures to require the disclosure of six additional potential risks associated with trading during extended hours, including the proposed Night Session. Such disclosures notify investors of potential risks and allow them to evaluate whether to trade during extended hours. The Exchange would also implement measures to safeguard against trade executions that are clearly erroneous while it works to build industry-wide consensus on proposals for establishing uniform after-hours volatility moderators. The Exchange believes that requiring the use of ports specifically designated for use during the Night Session is appropriate because the Night Session operates on a technically distinct trading system from the Day Session. As a result, Day Session ports cannot connect to, or interact with, the Night Session trading system. This approach reflects the technical and functional separation of the two systems and ensures that Night Session activity occurs in a manner consistent with the Act's goals of ensuring market integrity, investor protection, and fair and orderly trading. Nasdaq would also address corporate actions, conduct real-time surveillance, and implement trading halts consistent with its proposed rules. Finally, trading overnight will be transparent because Nasdaq will not commence operations of the proposed extended hours until the Equity Data Plans are prepared to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Night Session. The proposed rules will also foster competition

by introducing another trading venue during the overnight hours, as at least two other exchanges have obtained Commission approval for operating on an extended hours basis.

In addition to increasing investor access to the Exchange, the proposal also stands to promote capital formation and facilitate portfolio management.

Finally, the Exchange believes that the proposed conforming and other non-substantive changes would remove impediments to and perfect the mechanism of a free and open market by reducing potential investor and market participant confusion thereby ensuring that investors and market participants can more easily navigate, understand and comply with the Exchange's rules.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to expand its trading hours to 23 hours a day, 5 days per week are neither intended to nor will they adversely impact competition. If anything, the Exchange expects that the proposed changes will promote competition by providing for the Nasdaq Stock Market to accommodate the growing demand to trade equity securities during overnight hours when the market is presently closed. Unaffiliated exchanges remain free to compete by offering extended hours trading of similar duration. The Exchange believes that requiring the use of designated ports for the Night Session will not impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The requirement for separate ports merely reflects the technical and functional separation of the two systems and ensures that Night Session activity occurs in a manner consistent with the Act's goals of ensuring market integrity, investor protection, and fair and orderly trading.

The Exchange operates in a highly competitive market in which market Participants can readily choose between competing venues if they deem participation in the Exchange's market to no longer be desirable or if they do not wish to trade during the new Night Session. In such an environment, the Exchange must carefully consider the impact that any change it proposes may

have on market participants, understanding that it will likely lose participants to the extent a change is viewed as unfavorable by them. Because competitors are free to modify the functionality and structure of their markets, including by availing themselves of the same capabilities that are being developed to trade securities and ETPs on a 23/5 basis, the Exchange believes that the degree to which its proposal imposes any burden on competition is limited. Last, to the extent the proposed change is successful in attracting additional market participants or additional activity by existing participants, the Exchange also believes that the proposed change will promote competition among trading venues by making the Exchange a more attractive trading venue.

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

The Exchange has neither solicited nor received written comments on the proposed rule change. The Exchange has, however, responded to comments received in response to the Notice.

III. Discussion and Commission Findings

The Commission finds that the Amended Proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰² In particular, the Commission finds that the Amended Proposal is consistent with Section 6(b)(5) of the Exchange Act,¹⁰³ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, Nasdaq proposes to extend its hours of operation to include a Night Session,

¹⁰² 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁰³ 15 U.S.C. 78f(b)(5).

which is modeled on the Exchange's existing rules that govern Pre-Market Hours and Post-Market Hours sessions, as well as rules approved by the Commission for similar sessions on other national securities exchanges.¹⁰⁴ As proposed, Nasdaq will have two sessions—a Day Session and a Night Session - for trading on Business Days. The Day Session will consist of three individual trading sessions: Pre-Market Hours beginning at 4:00 AM and continuing until 9:30 AM; Regular Market Hours beginning at 9:30 AM and continuing until 4:00 PM and Post-Market Hours beginning at 4:00 PM and continuing until 8:00 PM. The Night Session will begin at 9:00 PM on one calendar day and continue until 4:00 AM on the next calendar day, so long as the next calendar day is a Business Day. The Night Session will begin on Sunday evenings at 9:00 PM and a Night Session will be held Monday through Thursday. As described by the Exchange, the Night Session will operate in a manner that is consistent with the Pre-Market Hours and Post-Market Hours sessions but will require additional customer disclosures about the potential risks of trading during the Night Session and the use of a dedicated port.

Further, as discussed below, the Exchange will not commence operation of the Night Session prior to a filing of a proposed rule change to confirm its and the Equity Data Plans' readiness. Specifically, Nasdaq Equity 1, Section 1(a)(19) requires the Exchange to file a proposed rule change, pursuant to Section 19(b) of the Exchange Act and the rules thereunder, to amend its rules confirming that the Exchange is able to comply with its obligations under the Exchange Act during the Night Session and that the Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information during that time period.

Accordingly, the Amended Proposal is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with

¹⁰⁴ See 24X Approval Order and NYSE Arca Approval Order, supra note 10.

respect to and facilitating transactions in NMS stocks, and perfect the mechanism of a free and open market and a national market system. Moreover, the Amended Proposal will foster competition by introducing another trading venue during the overnight hours. As amended, the Exchange’s rules for the Night Session are designed to increase transparency and enhance customer risk disclosures such that the Exchange will operate the Night Session in a manner that is consistent with the regulatory framework of the extended hours sessions of other national securities exchanges.

A. General Comments on Extended Hours Trading

The Commission received comment letters on the proposal and a response from the Exchange.¹⁰⁵ Several commenters supported the proposal.¹⁰⁶ One commenter expressed support for the proposal with recommendations, including that Nasdaq submit specific “implementation dates for updated trading halts and volatility mechanism rules.”¹⁰⁷ Nasdaq responded that its proposed rules governing trading halts and volatility mechanisms during the Night Session are substantively identical to the approved rules of another national securities exchange operating extended hours sessions citing rules of 24X and NYSE Arca.¹⁰⁸ This commenter also stated that Nasdaq should provide investor education on 23-hour trading.¹⁰⁹ Another commenter that supported the Amended Proposal stated that the Commission should approve the Amended Proposal.¹¹⁰

¹⁰⁵ See supra note 4.

¹⁰⁶ See, e.g., Letter from Alexander Kralev, dated Feb. 12, 2026 (“Kralev Letter”); Letter from Katie Kolchin, CFA Managing Director, Head of Equity & options Market Structure, and Gerald O’Hara, Vice President, Assistant General Counsel, SIFMA, dated Mar. 19, 2026 (“SIFMA Letter”). One commenter that supported the proposal also suggested that Nasdaq change its hours of the Day Session and the Closing Cross to occur earlier in time. See Kralev Letter. Nasdaq responded that it had not proposed to modify the time for the Closing Cross and that the time would remain unchanged at 4:00 p.m. ET. See Nasdaq Letter at 4.

¹⁰⁷ See Letter from Kara Maniscalco, dated Jan. 29, 2026 (“Maniscalco Letter”) at 6.

¹⁰⁸ See Nasdaq Letter at 2.

¹⁰⁹ See Maniscalco Letter at 6.

¹¹⁰ See SIFMA Letter at 1. This commenter also raised “additional questions and issues for broader consideration outside of the context of a single exchange rule filing,” including SIP availability, harmonization of trade date, adoption of a one-hour trading pause, and coordination of corporate actions. See SIFMA Letter. As stated below, the Commission is monitoring the developments of extended trading hours.

Several other commenters opposed the proposal to extend the Exchange’s trading hours.¹¹¹ One commenter stated that the Commission had not given sufficient consideration to the issues because the Commission had not issued requests for information, published concept releases or held roundtables before setting forth its views on overnight trading.¹¹² Nasdaq stated that the issues related to extended hour trading generally, including those raised by commenters, have been considered and addressed by the Commission.¹¹³ The Commission has previously sought public comment on the proposed rules of a national securities exchange related to overnight trading, received substantive input from a variety of commenters, and considered the relevant issues prior to taking action.¹¹⁴ Further, as the Commission has stated, the overnight trading of NMS stocks is not novel as it currently occurs on the over-the-counter market on ATNs (i.e., during the time period proposed by Nasdaq).¹¹⁵

One commenter pointed out that some market participants remain critical of the expansion of trading hours for national securities exchanges and warned of the potential systemic risks (thin liquidity, volatility, gamification, and harm to retail investors) related to around-the-clock trading.¹¹⁶ Other commenters questioned the benefits of 24-hour trading,¹¹⁷ warned of fragmented liquidity and volatility,¹¹⁸ warned of structural risks and concentration of power in low volume periods,¹¹⁹ and recommended disapproval.¹²⁰ Another commenter stated that retail

¹¹¹ See Letter from Kevin Bell, dated Dec. 18, 2025 (“Bell Letter”); Letter from Anonymous, dated Jan. 14, 2026 (“Anonymous Letter”); Letter from Francesco Terranova, dated Jan. 27, 2026 (“Terranova Letter”); Letter from Benjamin L. Schiffrin, Director of Securities Policy, Better Markets, Inc., dated Feb. 3, 2026 (“Better Markets Letter”); and Letter from Jonathon Patterson, dated Feb. 7, 2026 (“Patterson Letter”).

¹¹² See Better Markets Letter at 1.

¹¹³ See Nasdaq Letter at 2.

¹¹⁴ See e.g., Notice; 24X Approval Order; and NYSE Arca Approval Order.

¹¹⁵ See 24X Approval Order and NYSE Arca Approval Order.

¹¹⁶ See Better Markets Letter.

¹¹⁷ See Bell Letter; Terranova Letter; and Patterson Letter.

¹¹⁸ See Terranova Letter.

¹¹⁹ See Patterson Letter.

¹²⁰ See Anonymous Letter. See also Terranova Letter.

investors are in early stages of developing disciplined risk management practices and that introducing continuous trading could undermine gains.¹²¹ One commenter also stated that the times when trading does not occur provides a “vital cooling-off period” that allows the market to digest news, earnings and global events.¹²²

The Exchange responded that the concerns raised by the comments with respect to extended hours trading, such as risks to investors, market stability, and lack of liquidity, have been considered and addressed by the Commission in approving similar proposals from other exchanges.¹²³ The Exchange stated that the proposal is based on established and Commission - approved rules of other exchanges that offer comparable extended hours trading.¹²⁴ The Exchange further stated that the Commission has allowed retail participation in extended hours trading with appropriate disclosures, and that the Exchange’s proposed mandatory customer disclosures are substantively identical to the approved rules of another exchange.¹²⁵

One commenter stated that the Commission could consider more limited and structured extensions of existing trading hours with full regulatory protections, circuit breakers and reporting requirements or the Commission could consider limiting the securities available during extended trading hours, such as highly liquid large-cap stocks.¹²⁶ The Exchange stated that it will operate within a regulatory framework consistent with that applied to extended hours sessions of other national securities exchanges, and that “the existing safeguards applicable to premarket and postmarket sessions, including operational safeguards, consolidated last sale and quotation information, enhanced customer risk disclosures for afterhours trading, and market surveillance capabilities” would also apply to the Night Session.¹²⁷ As discussed, Nasdaq’s proposal is

¹²¹ See Patterson Letter.

¹²² See Terranova Letter.

¹²³ See Nasdaq Letter at 4.

¹²⁴ See id.

¹²⁵ See id. at 2-3.

¹²⁶ See Patterson Letter.

¹²⁷ See Nasdaq Letter at 4.

substantively identical to the approved rules of another national securities exchange and to Nasdaq rules for the Pre-Market Hours and Post-Market Hours.

As the Commission stated in previous orders approving the extension of the trading hours of a national securities exchange to include overnight time periods, the Commission continually monitors the national market system and the operation of Federal securities laws, and the Commission, consistent with its oversight of the national market system, will continue to monitor the developments of extended trading hours.¹²⁸ In addition, consistent with previous orders, the monitoring of new market developments does not foreclose Commission action on this proposal.¹²⁹ The Commission finds that Nasdaq's rules, as amended, for the Night Session are consistent with the Exchange Act. Specifically, Nasdaq rules that will govern the Night Session are largely based on its rules for the Pre-Market Hours and Post-Market Hours sessions with differences, discussed below, as well as the additional customer disclosures, to accommodate further expansion of trading hours.

B. Equity Data Plans and Securities Information Processor Readiness

With respect to quotation and transaction information, Exchange Rule Equity 1, Section 1(a)(19) requires that the Exchange will not commence operation of the Night Session prior to the Equity Data Plans' readiness to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Night Session.¹³⁰ Further, Nasdaq Rule Equity 1, Section 1(a)(19) requires the Exchange to file a proposed rule change pursuant to Section 19(b) of the Exchange Act to amend the Exchange's rules confirming that the Exchange is able to comply with its obligations under the Exchange Act and the Equity Data Plans are prepared to collect, consolidate, process, and disseminate quotation and transaction information at all times

¹²⁸ See 24X Approval Order, 89 FR at 97106, NYSE Arca Approval Order, 90 FR at 9797.

¹²⁹ See 24X Approval Order, 89 FR at 97106, and NYSE Arca Approval Order, 90 FR at 9797.

¹³⁰ The Exchange has represented that it will submit "...all quotes and trades that are generated in the Night Session to the consolidated quote and trade systems maintained by the SIPs for public dissemination." See Footnote 70 of Amendment No. 2. See also *supra* note 76.

during the Night Session. The proposed rule change must be filed with the Commission and approved, or otherwise become effective pursuant to Section 19(b) of the Exchange Act, before Nasdaq can commence trading in the Night Session.

The Nasdaq rule requiring the operation of the Equity Data Plans during the Night Session is designed to ensure that consolidated quotation and transaction information are provided in a manner that is consistent with the existing extended hours sessions on exchanges, including Nasdaq. The Nasdaq rules for the Night Session are designed to perfect the mechanism of a free and open market and a national market system, protect investors and the public interest. Further, the Amended Proposal will foster competition by introducing another trading venue during these trading hours. The Commission has approved other national securities exchanges' rules to introduce overnight trading hours with substantively identical provisions.¹³¹

C. Designated Ports

For the Night Session, the Exchange will require market participants to use ports that are specifically designated for the Night Session. The following ports will be available for the night session: OUCH5, Core FIX, and FIX. The Exchange explained that the Night Session will have a distinct instance of the Trading System so the Day Session ports will only be capable of connecting to the Day Session of the Trading System. The Exchange will cancel all orders on the Nasdaq Book at the end of the Day Session and at end of the Night Session.

The use of dedicated ports for the Night Session is consistent with the requirements of the Act. The Exchange's proposed use of designated ports will allow the Exchange to use different Trading Systems for the Day and Night Sessions and will allow the Exchange to manage and monitor each session independently.

D. Effect on Retail Investors and Customer Disclosures

One commenter stated that retail investors do not have the resources to monitor their

¹³¹ See 24X Rule 1.5(c) and NYSE Arca Rule 7.34-E.

portfolios 23 hours a day and stated that the proposal would put retail investors at a disadvantage compared to institutional trading firms.¹³² Another commenter stated that extended hours trading may have a detrimental impact on investor behavior and that retail traders are unlikely to understand the risks of overnight trading.¹³³ The Exchange responded that its proposal adopts mandatory customer disclosures that are substantively identical to the corresponding approved rules of 24X.¹³⁴

Nasdaq's proposed rules are largely based on the previously approved overnight trading rules of other national securities exchanges.¹³⁵ In addition, while overnight trading is not yet operational on any national securities exchanges, it does currently occur in the over-the-counter market on multiple ATSS.¹³⁶ Accordingly, while Nasdaq's proposal would extend its trading hours with the Night Session (9:00 PM ET to 4:00 AM ET on Sunday, Monday, Tuesday, Wednesday and Thursday), market participants, including retail investors, are already able to trade during that time.

The Exchange has proposed several rules that will help to provide investor protections during the Night Session. For example, as discussed above, the Exchange proposed to update Equity 2, Section 20, which requires customer disclosures concerning the risks associated with trading in Extended Hours¹³⁷ to include additional risks specifically related to the Night Session. These additional risk factors include: (1) trading during hours that the primary listing market may not be open to conduct surveillance and other regulatory obligations; (2) trading during hours in which there may be different or limited regulatory protections such as single stock

¹³² See Terranova Letter. See also Better Markets Letter.

¹³³ See Better Markets Letter.

¹³⁴ See Nasdaq Letter at 3.

¹³⁵ See 24X Approval Order and NYSE Arca Approval Order, *supra* note 10.

¹³⁶ See, e.g., Blue Ocean ATS, LLC ("BOATS"). The operating hours for BOATS occur from 8:00 p.m. to 4:00 a.m. E.T. on days when the NYSE Trade Reporting Facility is open for trade reporting. See Form ATS-N, available at sec.gov/Archives/edgar/data/1795131/000153949723000091/xslATS-N_X01/primary_doc.xml.

¹³⁷ See *supra* note 14.

volatility mechanisms; (3) more limited trading alternatives may lead to losses if orders cannot be executed due to systems failures or other issues on the Exchange; (4) systems maintenance and testing may introduce more risks to trading due to less breaks in trading to conduct those events; (5) other key financial market infrastructure companies may be closed and could cause delays in settlement; (6) trading on an exchange during the Night Session is novel and may present unforeseen risks; and (7) trading during the Night Session may present additional unforeseen risks. These additional risk disclosures are substantially similar to the risk disclosures already approved by the Commission with respect to other national securities exchanges.¹³⁸ Accordingly, Nasdaq's Amended Proposal, which adds additional risk disclosures is consistent with the requirements of Section 6(b)(5) of the Exchange Act because it is designed to protect investors and the public interest.

Further, the Exchange proposed to limit the types of orders that would be allowed in the Night Session and will not accept unpriced orders. The Exchange stated that all limit orders permitted to trade in the Pre-Market Hours would be eligible for the Night Session, except for certain order types that are designated for the opening cross or post-open trading. As discussed above, the Exchange would not allow the following Order Types during the Night Session: Supplemental; Market Maker Peg; Market On Open; Limit on Open; Opening Imbalance Only; Market on Close; Limit on Close; Imbalance-Only; Company Direct Listing; Extended Trading Close; Midpoint Peg Post-Only; Midpoint Extended Life Order; and Midpoint Extended Life Order Plus Continuous Book. Moreover, the Exchange would not allow the following Order Attributes during the Night Session: Primary Pegging; Market Pegging; Midpoint Pegging; and Discretion (Pegging). With respect to Time-in-Force order attributes, orders entered during the Night Session that are designated to deactivate after 4:00 AM ET will deactivate at the conclusion of the Night Session at 4:00 AM ET. Moreover, the Exchange stated that limit orders

¹³⁸ See 24X Approval Order and NYSE Arca Approval Order, supra note 10.

entered during the Night Session will be subject to Limit Order Protection, a feature of the Exchange to prevent limit order acceptance at prices outside of pre-set limits. Consistent with other exchanges that are approved to operate overnight trading sessions, Nasdaq will not allow pegged orders or unpriced or market orders to be entered during the Night Session. Accordingly, Nasdaq's Amended Proposal, which restricts certain order types and order attributes, is consistent with the requirements of Section 6(b)(5) of the Exchange Act because it is designed to protect investors and the public interest.

E. Trading Pause/Transition Between Day and Night Sessions

To transition into the Night Session, the Exchange will institute a trading pause from 8:00 PM to 9:00 PM on Monday through Thursday for testing, system maintenance, and processing corporate actions. The Exchange will cancel all outstanding orders at the end of the Day Session at 8:00 PM and at the end of the Night Session at 4:00 AM the next calendar day. Nasdaq's proposed daily one-hour pause between the operation of the Day Session and the Night Session should be sufficient to permit Nasdaq to address the technical implications of a 23-hour trading day and will facilitate internal market testing and systems updates and improvements.

F. Other Proposed Rules

As described above, the Exchange also proposes various conforming, clarifying, and non-substantive changes. These changes, which generally delete obsolete references and replace them with the updated and relevant defined terms, should help to promote the transparency and clarity of the Exchange's rules related to the addition of the Night Session. These changes are consistent with the requirements under Section 6(b)(5) of the Exchange Act that the rules of an exchange are designed to remove impediments to and perfect the mechanism of a national market system, and protect investors and the public interest because they are designed to provide transparency and clarity to the Exchange's rules.

IV. Solicitation of Comments on Amendment Nos. 2 and 3 to the Proposed Rule Change

Interested persons are invited to submit written data, views and arguments concerning whether the proposed rule change, as amended by Amendment Nos. 2 and 3, 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-regulations/self-regulatory-organization-rulemaking>); or
- Send an email to rule-comments@sec.gov. Please include file number SR- SR-Nasdaq-2025-109 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-2025-109. 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 filing 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-Nasdaq-2025-109 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

V. Accelerated Approval of Proposed Rule Change, as amended by Amendment Nos. 2 and 3

The Commission finds good cause to approve the Amended Proposal prior to the thirtieth day after the date of publication of the notice of filing of Amendment Nos. 2 and 3 in the Federal

Register. The Amended Proposal is substantially similar to the approved rules of other national securities exchanges.¹³⁹ Amendment No. 2 revises the proposal to change the definition of Business Day and add an additional risk disclosure with respect to the Night Session.

Amendment No. 2 also clarifies that during the Night Session: (1) all NMS Stocks will be available for trading; (2) unpriced orders, like pegged orders, will not be permitted;¹⁴⁰ (3) CE Rules and LOP will be applicable;¹⁴¹ (4) M-ELO orders will be rejected;¹⁴² and (5) the Night Session specific ports will use the OUCH 5 technology;¹⁴³ in addition to other non-substantive changes to conform and clarify the proposed rule text. Amendment No. 3 clarifies that Amendment No. 2 replaced and superseded and replaced the original proposal in its entirety.

In light of the previous Commission orders approving other national securities exchanges' rules to allow trading during the times that coincide with the Night Session, and the substantive similarity of Nasdaq's Amended Proposal to those existing exchange rules, Amendment Nos. 2 and 3 do not raise any new or novel regulatory issues. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁴⁴ to approve the Amended Proposal, prior to the thirtieth day after the date of publication of the notice of Amendment Nos. 2 and 3 thereof in the Federal Register.

VI. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change, as amended by Amendment Nos. 2 and 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5) of the Act.¹⁴⁵

¹³⁹ See 24X Approval Order and NYSE Arca Approval Order, supra note 10.

¹⁴⁰ See proposed Nasdaq Rule 4702.

¹⁴¹ See proposed Nasdaq Rule 11890 (CE Rules) and Nasdaq Rule 4757(c) (Limit Order Protection).

¹⁴² See proposed Nasdaq Rule 4702(b)(14).

¹⁴³ See proposed Nasdaq Rule 4702(a).

¹⁴⁴ 15 U.S.C. 78s(b)(2).

¹⁴⁵ 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁴⁶ that the proposed rule change (SR-Nasdaq-2025-109), as amended by Amendment Nos. 2 and 3, be, and is hereby, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴⁷

Sherry R. Haywood,

Assistant Secretary.

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¹⁴⁶ 15 U.S.C. 78s(b)(2).

¹⁴⁷ 17 CFR 200.30-3(a)(12).