



Marsha Dixon

Senior Associate General Counsel

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October 27, 2023

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: SR-NASDAQ-2023-036 Amendment 1

Dear Ms. Countryman:

The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed the above-referenced filing on October 27, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Dixon-Herbert', written in a cursive style.

Marsha Dixon-Herbert
Senior Associate General Counsel

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 26

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

File No. * SR 2023 - * 036

Amendment No. (req. for Amendments *) 1

Filing by The Nasdaq Stock Market LLC

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

Initial * <input type="checkbox"/>	Amendment * <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

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

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

A proposal to amend Rule 4120 and Rule 4753 to set forth specific requirements for halting and resuming trading in a security that is subject to a reverse stock split.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Marsha Last Name * Dixon-Herbert

Title * Senior Associate General Counsel

E-mail * Marsha.Dixon@Nasdaq.com

Telephone * (301) 978-8183 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, The Nasdaq Stock Market LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 10/27/2023


(Title *)

By John Zecca

EVP and Chief Legal Officer

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

 Date: 2023.10.27 15:15:04 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information *

Add Remove View

SR-NASDAQ-2023-036 A-1 19b-4.doc

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

SR-NASDAQ-2023-036 A-1 Exhibit 1.

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

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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

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

Add Remove View

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

Add Remove View

SR-NASDAQ-2023-036 A-1 Exhibit 4.c

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

Exhibit 5 - Proposed Rule Text

Add Remove View

SR-NASDAQ-2023-036 A-1 Exhibit 5.c

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

Partial Amendment

Add Remove View

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

1. Text of the Proposed Rule Change

(a) The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend Rule 4120 (Limit Up-Limit Down and Trading Halts) and Rule 4753 (Nasdaq Halt Cross) to set forth specific requirements for halting and resuming trading in a security that is subject to a reverse stock split. This Amendment No. 1 supersedes the original filing in its entirety.³

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1. Amended rule text indicating additions to the immediately preceding filing is attached as Exhibit 4 and the text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of the Exchange on March 27, 2023. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Marsha Dixon-Herbert
Senior Associate General Counsel
Nasdaq, Inc.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ This Amendment No. 1 provides non-substantive clarifications and provides additional justification for the proposal.

(301) 978-8183

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

a. Purpose

In conjunction with the increase in overall reverse stock splits in recent years, Nasdaq proposes to amend Rule 4120 and Rule 4753 to set forth specific requirements for halting trading in a security that is subject to a reverse stock split and resuming trading using the Nasdaq Halt Cross.⁴ Current Rule 4120 does not specifically list rule reverse stock splits in the enumerated circumstances in which Nasdaq may halt trading in a security. The proposed amendments will be specific to the automatic initiation, pre-market trading and opening of a Nasdaq-listed security undergoing a reverse stock split.

Background

Nasdaq has observed that the current market environment has led to an increase in reverse stock split activity. In 2022, Nasdaq processed 196 reverse stock splits, compared to 35 in 2021 and 98 in 2020. Just in the first quarter of 2023, Nasdaq processed 78 reverse stock splits, and projects significantly more throughout 2023. Reverse stock splits are often effected by smaller companies that do not have broad media or research coverage. In most cases, the companies are listed on the Capital Market tier and are conducting reverse stock splits to achieve compliance with Nasdaq’s \$1 minimum bid price requirement.⁵

⁴ The “Nasdaq Halt Cross” is the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest. See Rule 4753(a)(4). “Eligible Interest” shall mean any quotation or any order that has been entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross. See Nasdaq Rule 4753(a)(5).

⁵ Rule 5550(a)(2) specifies that a Company that has its Primary Equity Security listed on the Capital Market must have a minimum bid price of at least \$1 per share. See also Rule 5450(a)(1) (Global

Nasdaq believes that the increase in companies effecting reverse stock splits warrants amendments to the trading halt rules to allow for Nasdaq to help reduce the potential for errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders. Nasdaq currently processes reverse stock splits overnight, with the security opening for trading at 4:00 a.m. ET in the pre-market hours (i.e., the trading session between 4:00 a.m. to 9:30 a.m. ET) on a split-adjusted basis. Recently, market participants have expressed concerns with allowing trading on an adjusted basis at 4:00 a.m., noting that it is not optimal because system errors or problems with orders may go unnoticed for a period of time when a security that has undergone a reverse stock split opens for trading with the other thousands of securities. These errors have the potential to adversely affect investors, market participants and the issuer.⁶ For example, in one recent instance problems in connection with the processing of a reverse stock split resulted in a broker executing trades selling more shares than customers held in their accounts, resulting in a temporary short position.

As such, Nasdaq believes it is appropriate to impose a trading halt, which would prohibit pre-market trading immediately after a reverse stock split and open trading in such securities using the Nasdaq Halt Cross Process set forth in Rule 4753. The proposed new rule will allow for Nasdaq and market participants to better detect any errors or

and Global Select Markets). Companies are afforded a grace period pursuant to Rule 5810(c)(3)(A) to regain compliance.

⁶ In a separate filing, Nasdaq also proposed changes to adopt specific notification and disclosure requirements for reverse stock splits. See Securities Exchange Act Release No. 98014 (July 28, 2023), 88 FR 51376 (August 3, 2023) (SR-Nasdaq-2023-21).

problems with orders for the security resulting from the reverse stock split before trading in the security begins and thereby avoid any material effect on the market.

Description of the Proposed Amendment

Nasdaq is proposing to: (1) amend Rule 4120(a) to provide the Exchange with explicit authority to declare a trading halt before the end of Post-Market Hours⁷ on the day immediately before the market effective date of a reverse stock split; and (2) amend Rule 4120(c) to include this halt in the existing procedures for initiating and terminating a trading halt. More specifically, proposed Rule 4120(a)(14) provides that Nasdaq shall halt trading of a security for which Nasdaq is the Primary Listing Market⁸ before the end of the Post-Market Hours on the day immediately before the market effective date of a reverse stock split. A trading halt due to a reverse stock split will be mandatory pursuant to proposed Rule 4120(a)(14). Nasdaq also proposes to modify Rule 4120(c)(7)(A) to include the new halt authority proposed in Rule 4120(a)(14) in the reopening process currently applicable to halts under Rules 4120(a)(1), (4), (5), (6), (9), (10) and (11). In general, Nasdaq expects to initiate the halt at 7:50 p.m., prior to the close of post-market trading at 8:00 p.m. on the day immediately before the split in the security becomes effective,⁹ and resume trading at 9:00 a.m. on the day the split is effective.¹⁰ Nasdaq

⁷ The term "Post-Market Hours" means the period of time beginning immediately after the end of Market Hours and ending at 8:00 p.m. ET. See Nasdaq Rule Equity 1, Section 1(a)(9).

⁸ Primary Listing Market is defined in Section X.A.8 of 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") as "the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest."

⁹ Initiating the halt at approximately 7:50 p.m. will provide Nasdaq with a limited buffer to ensure that trading in a security that is undergoing a reverse stock split will not continue after the close of post-market trading. While the Exchange does not anticipate halting a security that undergoes a reverse stock split sooner than 7:50 p.m., the Exchange may halt trading sooner than 7:50 p.m. for

believes that this halt and delayed opening¹¹ will give sufficient time for investors to review their orders and the quotes for the security and allow market participants to ensure that their systems have properly adjusted for the reverse stock split. Once post-market trading closes at 8:00 p.m. all orders for a halted security will be cancelled.

Nasdaq is also proposing to update Rule 4753(b) to include proposed Rule 4120(a)(14) in the list of numerated provisions that would be subject to the Nasdaq Halt Cross. As such, any security that is subject to a reverse stock split will be reopened using the Nasdaq Halt Cross prior to trading during market hours.

b. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹² Specifically, the proposal is consistent with Section 6(b)(5) of the Act¹³ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

other reasons as described in Nasdaq Equity 4, Section 4120. Nasdaq will provide notice of the halt through NasdaqTrader.com available at, <https://www.nasdaqtrader.com/Trader.aspx?id=TradeHalts>.

¹⁰ Nasdaq may change the resumption time if, for example, there was an Extraordinary Market Activity that could interfere with a fair and orderly 9:00 a.m. resumption. “Extraordinary Market Activity” is defined in the UTP Plan. Nasdaq will provide notice of the re-opening of the security through NasdaqTrader.com available at, <https://www.nasdaqtrader.com/Trader.aspx?id=TradeHalts>.

¹¹ Trading in a security that has undergone a reverse stock split will have a delayed opening because following the reverse stock split, the security will not re-open until the end of pre-market trading. Orders that have been entered for execution prior to the opening cross would be able to execute in the halt cross at 9:00 a.m.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

As described above, the Exchange is seeking to amend rules related to halting and resuming trading in U.S.-listed equity securities for which Nasdaq is the Primary Listing Market that is subject to a reverse stock split. The Exchange believes that establishing a reverse stock split trading halt rule will protect investors by giving the Exchange authority to act in situations where it is necessary to maintain fair and orderly markets, such as when a security is subject to a reverse stock split and companies have not updated their system to account for the new stock price. The Exchange also believes that it is reasonable and appropriate to use the Nasdaq Halt Cross process under Rule 4753 to re-open trading in a security that has been halted due to a reverse stock split because it is consistent with the process that is typically used by Nasdaq when reopening a security that has been halted under Rule 4120. It will also ensure that the process for resuming trading following a reverse stock split halt is consistent with other types of halts initiated by Nasdaq. Currently, none of the provisions in Rule 4120 provide authority to preemptively declare a trading halt in a security undergoing a significant corporate action that could lead to investor or market confusion.

The Exchange believes that the proposed amendments will provide greater transparency and clarity with respect to the manner in which trading will be halted due to a reverse stock split, and the process through which that halt will be implemented and terminated. Particularly, Nasdaq will not have the discretion of determining whether to declare a trading halt in a security that is subject to a reverse stock split. Rather, following the reverse stock split of the security for which Nasdaq is the Primary Listing Market, trading in the security will halt prior to the end of Post-Market Hours on the day immediately before the market effective date of a reverse stock split. Nasdaq also

believes it is appropriate to re-open the security at 9:00 a.m. because it gives the Exchange an opportunity to review its order book and root out any orders in a security that has undergone a reverse stock split, that have not correctly adjusted to the security's new stock price. The proposed changes seek to achieve consistency with respect to the initiation and termination of a trading halt with respect to securities that are subject to a reverse stock split, while maintaining a fair and orderly market, protecting investors and protecting the public interest.

Additionally, establishing a mandatory trading halt for securities that are subject to a reverse stock split and resuming trading thereafter promotes fair and orderly markets and the protection of investors, because it allows Nasdaq to protect the broader interests of the national market system and addresses potential concerns that system errors may affect immediate trading in those securities. Nasdaq believes that given the increase in companies effecting reverse stock splits, the proposed trading halt rules will help Nasdaq reduce the potential for errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders. Additionally, resuming trading at 9:00 a.m. also promotes fair and orderly markets and the protection of investors by allowing time to remove any orders that have not adjusted for the security's new reverse stock split price.

Based on the foregoing, the Exchange believes that the proposed rules are consistent with Section 6(b)(5) of the Act¹⁴ because they will promote just and equitable principles of trade and will remove any impediments to a free and open market and a national market system by allowing sufficient time for investors to review their orders

¹⁴ 15 U.S.C. 78f(b)(5).

and the quotes for a security that are subject to a reverse stock split, and allow market participants to ensure that their systems have properly accounted for the reverse stock split. As discussed previously, the Exchange believes that the proposed amendments establishing the authority and process for reverse stock split trading halts and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed.

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

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

The Exchange believes the proposal will not impose a burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is designed to protect investors and facilitate a fair and orderly market, which are both important purposes of the Act. To the extent that there is any impact on intermarket competition, it is incidental to these objectives.

The Exchange does not believe that the proposed rule change imposes a burden on intra-market competition because the provisions apply to all market participants and issuers equally. In addition, information regarding the halting and resumption of trading will be disseminated using several freely accessible sources to ensure broad availability of information offered by the Exchange that are available to subscribers.

In addition, the proposals include provisions related to the declaration and timing of trading halts and the resumption of trading designed to avoid any advantage to those who can react more quickly than other participants.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

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

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.
4. Amended rule text indicating additions to or deletions from the immediately proceeding filing.
5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2023-036)

October __, 2023

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change to Amend Rule 4120 (Limit Up-Limit Down and Trading Halts) and Rule 4753 (Nasdaq Halt Cross)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on October 27, 2023, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Rule 4120 (Limit Up-Limit Down and Trading Halts) and Rule 4753 (Nasdaq Halt Cross) to set forth specific requirements for halting and resuming trading in a security that is subject to a reverse stock split. This Amendment No. 1 supersedes the original filing in its entirety.³

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ This Amendment No. 1 provides non-substantive clarifications and provides additional justification for the proposal.

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

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

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

1. Purpose

In conjunction with the increase in overall reverse stock splits in recent years, Nasdaq proposes to amend Rule 4120 and Rule 4753 to set forth specific requirements for halting trading in a security that is subject to a reverse stock split and resuming trading using the Nasdaq Halt Cross.⁴ Current Rule 4120 does not specifically list rule reverse stock splits in the enumerated circumstances in which Nasdaq may halt trading in a security. The proposed amendments will be specific to the automatic initiation, pre-market trading and opening of a Nasdaq-listed security undergoing a reverse stock split.

Background

Nasdaq has observed that the current market environment has led to an increase in reverse stock split activity. In 2022, Nasdaq processed 196 reverse stock splits, compared to 35 in 2021 and 98 in 2020. Just in the first quarter of 2023, Nasdaq processed 78 reverse stock splits, and projects significantly more throughout 2023. Reverse stock

⁴ The “Nasdaq Halt Cross” is the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest. See Rule 4753(a)(4). “Eligible Interest” shall mean any quotation or any order that has been entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross. See Nasdaq Rule 4753(a)(5).

splits are often effected by smaller companies that do not have broad media or research coverage. In most cases, the companies are listed on the Capital Market tier and are conducting reverse stock splits to achieve compliance with Nasdaq's \$1 minimum bid price requirement.⁵

Nasdaq believes that the increase in companies effecting reverse stock splits warrants amendments to the trading halt rules to allow for Nasdaq to help reduce the potential for errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders. Nasdaq currently processes reverse stock splits overnight, with the security opening for trading at 4:00 a.m. ET in the pre-market hours (i.e., the trading session between 4:00 a.m. to 9:30 a.m. ET) on a split-adjusted basis. Recently, market participants have expressed concerns with allowing trading on an adjusted basis at 4:00 a.m., noting that it is not optimal because system errors or problems with orders may go unnoticed for a period of time when a security that has undergone a reverse stock split opens for trading with the other thousands of securities. These errors have the potential to adversely affect investors, market participants and the issuer.⁶ For example, in one recent instance problems in connection with the processing of a reverse stock split resulted in a broker executing trades selling more shares than customers held in their accounts, resulting in a temporary short position.

⁵ Rule 5550(a)(2) specifies that a Company that has its Primary Equity Security listed on the Capital Market must have a minimum bid price of at least \$1 per share. See also Rule 5450(a)(1) (Global and Global Select Markets). Companies are afforded a grace period pursuant to Rule 5810(c)(3)(A) to regain compliance.

⁶ In a separate filing, Nasdaq also proposed changes to adopt specific notification and disclosure requirements for reverse stock splits. See Securities Exchange Act Release No. 98014 (July 28, 2023), 88 FR 51376 (August 3, 2023) (SR-Nasdaq-2023-21).

As such, Nasdaq believes it is appropriate to impose a trading halt, which would prohibit pre-market trading immediately after a reverse stock split and open trading in such securities using the Nasdaq Halt Cross Process set forth in Rule 4753. The proposed new rule will allow for Nasdaq and market participants to better detect any errors or problems with orders for the security resulting from the reverse stock split before trading in the security begins and thereby avoid any material effect on the market.

Description of the Proposed Amendment

Nasdaq is proposing to: (1) amend Rule 4120(a) to provide the Exchange with explicit authority to declare a trading halt before the end of Post-Market Hours⁷ on the day immediately before the market effective date of a reverse stock split; and (2) amend Rule 4120(c) to include this halt in the existing procedures for initiating and terminating a trading halt. More specifically, proposed Rule 4120(a)(14) provides that Nasdaq shall halt trading of a security for which Nasdaq is the Primary Listing Market⁸ before the end of the Post-Market Hours on the day immediately before the market effective date of a reverse stock split. A trading halt due to a reverse stock split will be mandatory pursuant to proposed Rule 4120(a)(14). Nasdaq also proposes to modify Rule 4120(c)(7)(A) to include the new halt authority proposed in Rule 4120(a)(14) in the reopening process currently applicable to halts under Rules 4120(a)(1), (4), (5), (6), (9), (10) and (11). In general, Nasdaq expects to initiate the halt at 7:50 p.m., prior to the close of post-market

⁷ The term "Post-Market Hours" means the period of time beginning immediately after the end of Market Hours and ending at 8:00 p.m. ET. See Nasdaq Rule Equity 1, Section 1(a)(9).

⁸ Primary Listing Market is defined in Section X.A.8 of 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") as "the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest."

trading at 8:00 p.m. on the day immediately before the split in the security becomes effective,⁹ and resume trading at 9:00 a.m. on the day the split is effective.¹⁰ Nasdaq believes that this halt and delayed opening¹¹ will give sufficient time for investors to review their orders and the quotes for the security and allow market participants to ensure that their systems have properly adjusted for the reverse stock split. Once post-market trading closes at 8:00 p.m. all orders for a halted security will be cancelled.

Nasdaq is also proposing to update Rule 4753(b) to include proposed Rule 4120(a)(14) in the list of numerated provisions that would be subject to the Nasdaq Halt Cross. As such, any security that is subject to a reverse stock split will be reopened using the Nasdaq Halt Cross prior to trading during market hours.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹²

⁹ Initiating the halt at approximately 7:50 p.m. will provide Nasdaq with a limited buffer to ensure that trading in a security that is undergoing a reverse stock split will not continue after the close of post-market trading. While the Exchange does not anticipate halting a security that undergoes a reverse stock split sooner than 7:50 p.m., the Exchange may halt trading sooner than 7:50 p.m. for other reasons as described in Nasdaq Equity 4, Section 4120. Nasdaq will provide notice of the halt through NasdaqTrader.com available at, <https://www.nasdaqtrader.com/Trader.aspx?id=TradeHalts>.

¹⁰ Nasdaq may change the resumption time if, for example, there was an Extraordinary Market Activity that could interfere with a fair and orderly 9:00 a.m. resumption. “Extraordinary Market Activity” is defined in the UTP Plan. Nasdaq will provide notice of the re-opening of the security through NasdaqTrader.com available at, <https://www.nasdaqtrader.com/Trader.aspx?id=TradeHalts>.

¹¹ Trading in a security that has undergone a reverse stock split will have a delayed opening because following the reverse stock split, the security will not re-open until the end of pre-market trading. Orders that have been entered for execution prior to the opening cross would be able to execute in the halt cross at 9:00 a.m.

¹² 15 U.S.C. 78f(b).

Specifically, the proposal is consistent with Section 6(b)(5) of the Act¹³ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

As described above, the Exchange is seeking to amend rules related to halting and resuming trading in U.S.-listed equity securities for which Nasdaq is the Primary Listing Market that is subject to a reverse stock split. The Exchange believes that establishing a reverse stock split trading halt rule will protect investors by giving the Exchange authority to act in situations where it is necessary to maintain fair and orderly markets, such as when a security is subject to a reverse stock split and companies have not updated their system to account for the new stock price. The Exchange also believes that it is reasonable and appropriate to use the Nasdaq Halt Cross process under Rule 4753 to re-open trading in a security that has been halted due to a reverse stock split because it is consistent with the process that is typically used by Nasdaq when reopening a security that has been halted under Rule 4120. It will also ensure that the process for resuming trading following a reverse stock split halt is consistent with other types of halts initiated by Nasdaq. Currently, none of the provisions in Rule 4120 provide authority to preemptively declare a trading halt in a security undergoing a significant corporate action that could lead to investor or market confusion.

The Exchange believes that the proposed amendments will provide greater transparency and clarity with respect to the manner in which trading will be halted due to a reverse stock split, and the process through which that halt will be implemented and

¹³ 15 U.S.C. 78f(b)(5).

terminated. Particularly, Nasdaq will not have the discretion of determining whether to declare a trading halt in a security that is subject to a reverse stock split. Rather, following the reverse stock split of the security for which Nasdaq is the Primary Listing Market, trading in the security will halt prior to the end of Post-Market Hours on the day immediately before the market effective date of a reverse stock split. Nasdaq also believes it is appropriate to re-open the security at 9:00 a.m. because it gives the Exchange an opportunity to review its order book and root out any orders in a security that has undergone a reverse stock split, that have not correctly adjusted to the security's new stock price. The proposed changes seek to achieve consistency with respect to the initiation and termination of a trading halt with respect to securities that are subject to a reverse stock split, while maintaining a fair and orderly market, protecting investors and protecting the public interest.

Additionally, establishing a mandatory trading halt for securities that are subject to a reverse stock split and resuming trading thereafter promotes fair and orderly markets and the protection of investors, because it allows Nasdaq to protect the broader interests of the national market system and addresses potential concerns that system errors may affect immediate trading in those securities. Nasdaq believes that given the increase in companies effecting reverse stock splits, the proposed trading halt rules will help Nasdaq reduce the potential for errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders. Additionally, resuming trading at 9:00 a.m. also promotes fair and orderly markets and the protection of investors by allowing time to remove any orders that have not adjusted for the security's new reverse stock split price.

Based on the foregoing, the Exchange believes that the proposed rules are consistent with Section 6(b)(5) of the Act¹⁴ because they will promote just and equitable principles of trade and will remove any impediments to a free and open market and a national market system by allowing sufficient time for investors to review their orders and the quotes for a security that are subject to a reverse stock split, and allow market participants to ensure that their systems have properly accounted for the reverse stock split. As discussed previously, the Exchange believes that the proposed amendments establishing the authority and process for reverse stock split trading halts and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed.

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

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

The Exchange believes the proposal will not impose a burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is designed to protect investors and facilitate a fair and orderly market, which are both important purposes of the Act. To the extent that there is any impact on intermarket competition, it is incidental to these objectives.

The Exchange does not believe that the proposed rule change imposes a burden on intra-market competition because the provisions apply to all market participants and issuers equally. In addition, information regarding the halting and resumption of trading

¹⁴ 15 U.S.C. 78f(b)(5).

will be disseminated using several freely accessible sources to ensure broad availability of information offered by the Exchange that are available to subscribers.

In addition, the proposals include provisions related to the declaration and timing of trading halts and the resumption of trading designed to avoid any advantage to those who can react more quickly than other participants.

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

No written comments were either solicited or received.

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

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

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2023-036 A-1 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-2023-036 A-1. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2023-036 A-1 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Sherry R. Haywood,

Assistant Secretary.

¹⁵ 17 CFR 200.30-3(a)(12).

EXHIBIT 4

Text is marked to show changes to proposed rule language in the immediately preceding filing. New changes are underlined.

The Nasdaq Stock Market LLC Rules

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Equity 4 Equity Trading Rules

* * * * *

4120. Limit Up-Limit Down Plan and Trading Halts**(a) Authority to Initiate Trading Halts or Pauses**

In circumstances in which Nasdaq deems it necessary to protect investors and the public interest, Nasdaq, pursuant to the procedures set forth in paragraph (c):

(1) – (13) No change.

(14) shall halt trading of a security for which Nasdaq is the Primary Listing Market before the end of Post-Market Hours on the day immediately before the market effective date of a reverse stock split.

(b) No change.

(c) Procedure for Initiating and Terminating a Trading Halt

(1) - (6) No change.

(7) (A) A trading halt or pause initiated under Rule 4120(a)(1), (4), (5), (6), (9), (10), [or] (11), or (14) shall be terminated when Nasdaq releases the security for trading. For any such security listed on Nasdaq, prior to terminating the halt or pause, there will be a 5-minute Display Only Period during which market participants may enter quotations and orders in that security in Nasdaq systems. In addition, in instances where a trading halt is in effect prior to the commencement of the Display Only Period, market participants may enter orders in a security that is the subject of the trading halt on Nasdaq. Such orders will be accepted and entered into the system.

(B) - (C) No change.

(8) - (10) No change.

* * * * *

4753. Nasdaq Halt Cross

(a) No change.

(b) **Processing of Nasdaq Halt Cross.** For Nasdaq-listed securities that are the subject of a trading halt or pause initiated pursuant to Rule 4120(a)(1), (4), (5), (6), (7),² [or](11), or (14),² the Nasdaq Halt Cross shall occur at the time specified by Nasdaq pursuant to Rule 4120, and Market hours trading shall commence when the Nasdaq Halt Cross concludes.

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EXHIBIT 5

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

The Nasdaq Stock Market LLC Rules

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Equity 4 Equity Trading Rules

* * * * *

4120. Limit Up-Limit Down Plan and Trading Halts

(a) Authority to Initiate Trading Halts or Pauses

In circumstances in which Nasdaq deems it necessary to protect investors and the public interest, Nasdaq, pursuant to the procedures set forth in paragraph (c):

(1) – (13) No change.

(14) shall halt trading of a security for which Nasdaq is the Primary Listing Market before the end of Post-Market Hours on the day immediately before the market effective date of a reverse stock split.

(b) No change.

(c) Procedure for Initiating and Terminating a Trading Halt

(1) - (6) No change.

(7) (A) A trading halt or pause initiated under Rule 4120(a)(1), (4), (5), (6), (9), (10), [or] (11), or (14), shall be terminated when Nasdaq releases the security for trading. For any such security listed on Nasdaq, prior to terminating the halt or pause, there will be a 5-minute Display Only Period during which market participants may enter quotations and orders in that security in Nasdaq systems. In addition, in instances where a trading halt is in effect prior to the commencement of the Display Only Period, market participants may enter orders in a security that is the subject of the trading halt on Nasdaq. Such orders will be accepted and entered into the system.

(B) - (C) No change.

(8) - (10) No change.

* * * * *

4753. Nasdaq Halt Cross

(a) No change.

(b) **Processing of Nasdaq Halt Cross.** For Nasdaq-listed securities that are the subject of a trading halt or pause initiated pursuant to Rule 4120(a)(1), (4), (5), (6), (7), or (11), or (14), the Nasdaq Halt Cross shall occur at the time specified by Nasdaq pursuant to Rule 4120, and Market hours trading shall commence when the Nasdaq Halt Cross concludes.

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