membership agreements and documents by incorporating in the Rules (1) the governing law of agreements and other documents provided to NSCC pursuant to the Rules; and (2) the affirmative undertakings that Members currently make in onboarding membership agreements.

By enhancing the clarity and transparency of the Rules, and allowing NSCC to simplify the membership agreements and other documents, the proposed changes would allow Participants to more efficiently and effectively conduct their business in accordance with the Rules, which NSCC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, NSCC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.[18]

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe the proposed rule changes would impact competition. The proposed rule changes would merely enhance the clarity and transparency of the Rules and would simplify the documentation that is provided to NSCC by Members pursuant to the Rules. Therefore, the proposed changes would not affect NSCC's operations or the rights and obligations of membership. As such, NSCC believes the proposed rule changes would not have any impact on competition.

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

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

NSCC reserves the right to not respond to any comments received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[19] of the Act and paragraph (f)[20] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2021–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2021–012. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2021–012 and should be submitted on or before December 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–26074 Filed 11–29–21; 8:45 am]

BILLING CODE 8011–01–P

[18] *Id.*

[19] 15 U.S.C 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93662; File No. SR–NASDAQ–2021–094]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Post-Only Quote Configuration Risk Protection

November 23, 2021.

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 November 19, 2021, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

The Exchange proposes to amend The Nasdaq Options Market LLC (''NOM'') Rules at Options 3, Section 15, Risk Protections, to adopt an optional Post-Only Quoting Protection for NOM Market Makers.

The Exchange also proposes to correct certain minor technical amendments within Options 1, Section 1, ''Definitions,'' and Options 3, Section 7, ''Types of Orders and Order and Quote Protocols.'' [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.

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

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

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

1. Purpose

The proposal amends NOM's Rules at Options 3, Section 15, Risk Protections, to codify an optional Post-Only Quoting Protection for NOM Market Makers.[4] This optional risk protection allows NOM Market Makers to prevent their quotes from removing liquidity from the Exchange's order book upon entry. The Exchange also proposes to correct certain minor technical amendments within Options 1, Section 1, ''Definitions,'' and Options 3, Section 7, ''Types of Orders and Order and Quote Protocols.'' [5]

Specifically, this optional risk protection would be codified within Options 3, Section 15(c)(3). With this risk protection, NOM Market Makers may elect to configure their SQF [6] or QUO [7] protocols to prevent their quotes from removing liquidity (''Post-Only Quote Configuration''). This Post-Only Quote Configuration re-prices or cancels a NOM Market Maker's quote that would otherwise lock or cross any resting order [8] or quote on the Exchange's order book upon entry. The Exchange notes that this functionality does not apply during an Opening Process [9] because the order book is established once options series are open for trading.

Participants may elect whether to re-price or cancel their quotes with this functionality. When configured for re-price, quotes are re-priced to $.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers). Notwithstanding the aforementioned, and as is the case today, if a quote with a Post-Only Quote Configuration would not lock or cross an order on the System but would lock or cross the NBBO, the quote will be handled pursuant to Options 3, Section 4(b)(6). When configured for cancel, Participants will have their quotes returned whenever the quote would lock or cross the NBBO or be placed on the book at a price other than its limit price.

This optional risk protection enables NOM Market Makers to better manage their risk when quoting on NOM. Today, BOX Exchange LLC (''BOX''),[10] NYSE Arca, Inc. (''NYSE Arca''),[11] and MIAX Emerald, LLC (''MIAX Emerald'') [12] have similar functionality. BOX does not permit Market Maker's quotes to take liquidity and will reject the quote. Other options markets, unlike BOX, continue to permit their market makers to add or remove liquidity from the order book.[13] NYSE Arca and MIAX Emerald will re-price quotes one minimum price variation (''MPV'') to avoid the quote from trading as a liquidity taker against the resting order. The Exchange's proposal permits a NOM Market Maker a choice as to whether to cancel or re-price its quote when using the Post-Only Quote Configuration. Unlike NYSE Arca and MIAX Emerald, the Exchange would re-price $.01 below the current low offer (for bids) or above the current best bid (for offers) and display the quote at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers).

Of note, today, all NOM participants may utilize the Post-Only Order type.[14]

---

[3] Options 3, Section 7 describes the order types available on NOM as well as the protocols through which market participants may submit either orders or quotes into NOM.

[4] Today, NOM offers this functionality which is not currently codified in its rules. Today, no Participant has configured their ports to utilize this feature.

[5] Options 3, Section 7 describes the order types available on NOM as well as the order and quote protocols available to submit orders and quotes into NOM.

[6] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Market Makers to connect, send, and receive messages related to quotes and Immediate-or-Cancel Orders into and from the Exchange. Features include the following: (1) Options symbol directory messages (*e.g.,* underlying instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; and (8) opening imbalance messages. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. *See* Options 3, Section 7(e)(1)(B).

[7] ''Quote Using Orders'' or ''QUO'' is an interface that allows Market Makers to connect, send, and receive messages related to single-sided orders to and from the Exchange. Order Features include the following: (1) Options symbol directory messages (*e.g.,* underlying); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications. Orders submitted by Market Makers over this interface are treated as quotes. Market Makers may only enter interest into QUO in their assigned options series. *See* Options 3, Section 7(e)(1)(D) as proposed to be amended herein.

[8] This would include any re-priced orders as described in Options 3, Section 5(d), any re-priced quotes as described in Options 3, Section 4(b)(6), Post-Only Orders, as described in Options 3, Section 7(a)(9), and Price Improving Orders, as described in Options 3, Section 7(a)(5) and Options 3, Section 5(c). Post-Only Orders and Price Improving Orders may re-price.

[9] The Exchange's Opening Process is described at Options 3, Section 8.

[10] BOX Rules provide, ''Notwithstanding Rule 100(a)(56), all quotes and quote updates on BOX after the opening are liquidity adding only. Specifically, after the Opening Match pursuant to Rule 7070, a Market Maker's quote will not execute against a resting order or quote on the BOX Book. If an incoming quote is marketable against the BOX Book and will execute against a resting order or quote, it will be rejected.'' *See* BOX IM–8050–3. *See also* Securities Exchange Act Release No. 79311 (November 15, 2016), 81 FR 83322 (November 21, 2016) (SR–BOX–2016–45) (Order Approving a Proposed Rule Change To Amend the Treatment of Quotes To Provide That All Quotes on BOX Are Liquidity Adding Only).

[11] NYSE Arca permits a market maker to optionally designate a quote as ''Add Liquidity Only.'' *See* NYSE Arca Rule 6.37A–O(a)(3)(B).

[12] *See* MIAX Emerald Rule 517(a)(1)(i).

[13] Miami International Securities Exchange LLC (''MIAX'') permits its market makers to add and remove liquidity from the order book. *See* MIAX's Fee Schedule which delineates Maker and Taker pricing. Nasdaq ISE, LLC (''ISE'') also permits market makers to add and remove liquidity from the order book. *See* ISE's Pricing Schedule at Options 7.

[14] ''Post-Only Order'' is an order that will not remove liquidity from the System. Post-Only Orders are to be ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) If a Post-Only Order would lock or cross an order on the System, the

Below are some examples of the Post-Only Quote Configuration functionality as well as an example of re-pricing of a Price Improving Order.[15]

Re-Priced Price Improving Order—Penny Interval Program Display and Execution Example—Non-Penny Interval Program (Options 3, Section 7(a)(5))

- Non-Penny Interval Program MPV in open trading state
- Market Maker A quote $0.90 (10) × $1.00 (10)
- ABBO $0.85 × $1.05
- Firm A sends Price Improving Order to buy 5 contracts @$0.93
  - Price Improving Order displays $0.90 bid, which now shows (15 quantity)
- Order arrives to sell 10 contracts @ $0.90
  - 5 contracts execute with Firm A @ $0.93
  - 5 contracts execute with Market A @$0.90

In this example, the inbound order received price improvement as a result of the available non-displayed interest on the order book.

Re-Priced Post-Only Order—Penny Interval Program Display and Execution Example—Non-Penny Interval Program (Options 3 Section 7(a)(9))

- Non-Penny Interval Program MPV in open trading state
- Market Maker A quote $0.95 (10) × $1.00 (10)
- ABBO $0.85 × $1.05
- Firm A sends Post-Only Order to buy 5 contracts @$1.00
  - Post-Only Order re-prices on order book to $0.99
  - Displays on order book @$0.95 (bid), which now shows (15 quantity)
- Order to sell 10 contracts arrives @ $0.95
  - 5 contracts execute with Firm A @ $0.99
  - 5 contracts execute with Market A @$0.95

In this example, the inbound order received price improvement as a result of the available non-displayed interest on the order book.

Re-Priced Post-Only Quote—Penny Interval Program Display and Execution Example—Non-Penny Interval Program (Options 3 Section 7(a)(9))

- Non-Penny Program MPV in open trading state
- Market Maker A quote $0.95 (10) × $1.00 (10)
- ABBO $0.85 × $1.05
- Market Maker B (configured at the badge level for Post-Only and selection of re-price upon quote) quote arrives 1.00 (5) × $1.05 (5)
  - Bid side quote re-prices on order book to $0.99
  - Displays on order book @$0.95 (bid), which now shows (15 quantity)
  - Offer side quote books and displays at $1.05
- Order to sell 10 contracts arrives @ $0.95
  - 5 contracts execute with Market Maker B @$0.99
  - 5 contracts execute with Market A @$0.95

In this example, the inbound order received price improvement as a result of the available non-displayed interest on the order book.

Options 3, Sections 1 and 7

The Exchange proposes to correct certain minor technical amendments within Options 1, Section 1, ''Definitions,'' and Options 3, Section 7, ''Types of Orders and Order and Quote Protocols.''

First, the Exchange proposes to update a citation within Options 3, Section 7(a)(9) which describes the Post-Only Order. The citation to Options 3, Section 22(b)(3)(C) is incorrect. The Exchange proposes to replace this citation with Options 3, Section 5(b)–(d)[16] which describes re-pricing for locked and crossed quotes.

Second, the Exchange proposes to amend the term ''Nasdaq Options Market Maker'' or ''Options Market Maker'' within Options 1, Section 1, ''Definitions.'' Specifically, this term within Options 1, Section 1(a)(27) describes an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Options 2 of these Rules. The Exchange proposes to add ''Market Maker'' as an alternative term for a Nasdaq Options Market Maker.

Third, the Exchange proposes to amend the term ''NOM Market Makers'' within Options 3, Section 7(e)(1)(D) which describes the ''Quote Using Orders'' or ''QUO'' quote protocol. The Exchange proposes to replace the term ''NOM Market Makers'' with ''Market Makers'' as proposed to be defined within Options 1, Section 1(a)(27).[17] The Exchange believes utilizing ''Market Makers'' in addition to ''Nasdaq Options Market Maker'' and ''Options Market Maker'' will conform the use of that term throughout the Rulebook.

Implementation

The Exchange proposes to implement this functionality prior to June 30, 2022.

---

order will be re-priced to $.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation of another market center, the order will be handled pursuant to Options 3, Section 5(b)–(d). Participants may choose to have their Post-Only Orders returned whenever the order would lock or cross the NBBO or be placed on the book at a price other than its limit price. Post-Only Orders received prior to the opening will be eligible for execution during the opening cross and will be processed as per Options 3, Section 8. Post-Only Orders received after market close will be rejected. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel. (e) Entry and Display of Orders and Quotes. Participants may enter orders and quotes into the System as specified below. *See* Options 3, Section 7(a)(9).

[15] ''Price Improving Order'' is an order to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders may be entered in increments as small as one cent. Price Improving Orders that are available for display shall be displayed at the minimum price variation in that security and shall be rounded up for sell orders and rounded down for buy orders. *See* Options 3, Section 7(a)(5).

[16] Options 3, Section 5(b)–(d) provides,

''(b) NBBO Price Protection. Orders, other than Intermarket Sweep Orders (as defined in Rule Options 5, Section 1(8) will not be automatically executed by the System at prices inferior to the NBBO (as defined in Options 5, Section 1(10)). There is no NBBO price protection with respect to any other market whose quotations are Non-Firm (as defined in Options 5, Section 1(11)).

(c) The System automatically executes eligible orders using the Exchange's displayed best bid and offer (''BBO'') or the Exchange's non-displayed order book (''internal BBO'') if the best bid and/or offer on the Exchange has been repriced pursuant to subsection (d) below. The contract size associated with Displayed Price Improving Orders to buy (sell) are displayed at the MPV below (above) the price of the Price Improving Order. Price Improving Orders will not be permitted to create a locked or crossed market or to cause a trade through violation.

(d) Trade-Through Compliance and Locked or Crossed Markets. An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or cross market violation or would cause a trade-through violation, it will be re-priced to current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.''

[17] The term ''Nasdaq Options Market Maker'' or ''Options Market Maker'' mean an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Options 2 of these Rules. *See* Options 3, Section 1(a)(27).

The Exchange will issue an Options Trader Alert to Participants specifying the date of implementation.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[18] in general, and furthers the objectives of Section 6(b)(5) of the Act,[19] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by enhancing the risk protections available to NOM Market Makers. The proposal also promotes the policy goals of the Commission which has encouraged execution venues, exchanges, and non-exchanges alike, to enhance risk protection tools and other mechanisms to decrease risk and increase stability. This proposal is similar to functionality currently on BOX, NYSE Arca, and MIAX Emerald.[20]

The Exchange's proposal to amend Options 3, Section 15, Risk Protections, to codify new paragraph (c)(3) to permit NOM Market Makers to prevent their quotes from removing liquidity from the Exchange's order book is consistent with the Act for several reasons. While NOM Market Makers may manage their risk by utilizing the Post-Only Quote Configuration to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on the NOM order book upon entry, there are also downstream benefits to market participants. Re-priced interest on the order book provides price improvement for market participants that interact with that non-displayed interest that is priced better than the NBBO. For example, a Post-Only Order may re-price to $.01 below the current low offer (for bids) or above the current best bid (for offers) and is displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers) the result is that there is better-priced non-displayed interest available on the order book. Market participants are entitled to the better-priced interest when they interact with the re-priced Post-Only Order on the order book. Additionally, the benefits of enhanced risk protections flow downstream to counterparties both within and away from the Exchange, thereby increasing systemic protections as well.

The proposed risk protection allows NOM Market Makers the ability to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on NOM's order book upon entry, thereby protecting investors and the general public as NOM Market Makers transact a large number of orders on the Exchange and bring liquidity to the marketplace. NOM Market Makers would utilize the proposed risk protection to avoid unexpectedly taking liquidity with non-displayed, non-transparent interest[21] on the order book. As a result of taking liquidity, NOM Market Makers would incur a taker fee that may impact the NOM Market Maker's ability to provide liquidity and meet quoting obligations. NOM Market Makers are required to add liquidity on NOM and, in turn, are rewarded with lower pricing[22] and enhanced allocations.[23] Specifically, the risk protection would permit NOM Market Makers to add liquidity only and avoid removing non-displayed interest on the order book thereby maximizing the benefit of their quoting to bring liquidity to NOM by allowing NOM Market Makers to provide as much liquidity as possible, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system and protecting investors and the public interest. There is no impact to other market participants by introducing this Post-Only Quote Configuration as other non-Market Makers may continue to utilize the Post-Only Order functionality and this functionality will continue to benefit downstream counterparties, both within and away from the Exchange, who may interact with NOM's non-displayed order book and thereby interact with order flow that is priced better than the NBBO. Also, other market participants may interact with the liquidity provided by NOM Market Makers.

Of note, NOM does not offer auction functionality. An auction mechanism may interact adversely with Post-Only Orders or quotes with a Post-Only Quote Configuration that are re-priced in $0.01 increments and displayed at minimum price variation increments. In this example, the inbound auction would reject against the non-displayed Post-Only Order or quote with a Post-Only Quote Configuration if NOM were to have an auction mechanism. NOM has no such auctions and, as shown in the examples described herein, market participants may access any non-displayed liquidity, resulting in price improvement for the market participant.

Unlike other market participants, NOM Market Makers have certain obligations on the market. NOM Market Makers are required to provide continuous two-sided quotes on a daily basis[24] and are subject to various obligations associated with providing liquidity on the market.[25] NOM Market Makers are the sole liquidity providers on the Exchange and, therefore, are offered certain quote risk protections noted within Options 3, Section 15 to allow them to manage their risk more effectively.[26] The proposed Post-Only Quote Configuration is another risk protection afforded to NOM Market Makers to assist them in managing their risk while continuing to comply with their obligations. The Exchange notes that enhancing the ability of NOM Market Makers to add liquidity and avoid taking liquidity from the order book promotes just and equitable principles of trade on NOM and protects investors and the public interest, thereby enhancing market structure by allowing NOM Market Makers to add liquidity only. Greater liquidity benefits all market participants by providing more trading opportunities and attracting greater participation by NOM Market Makers. Also, an increase in the activity of NOM Market Makers in turn facilitates tighter spreads.

Finally, today, all Participants may submit Post-Only Orders.[27] Offering NOM Market Makers the ability to configure their quotes as Post-Only will allow all market participants on NOM to enter interest with a Post-Only designation.

Options 3, Sections 1 and 7

The Exchange proposal to correct certain minor technical amendments within Options 1, Section 1, ''Definitions,'' and Options 3, Section 7, ''Types of Orders and Order and Quote Protocols'' is consistent with the Act as updating the citation within Options 3, Section 7(a)(9) which describes the Post-Only Order, amending the term ''Nasdaq Options Market Maker'' or ''Options Market Maker'' within Options 1, Section 1, ''Definitions,'' and replacing the term ''NOM Market Makers'' within Options 3, Section 7(e)(1)(D) which describes the ''Quote Using Orders'' or ''QUO'' quote protocol with ''Market Makers'' as proposed to be defined within Options 3, Section 1(a)(27) will bring greater clarity to these rules. The

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] *See* notes 10–12 above.

[21] *See* note 8 above.

[22] *See* Options 7, Section 2.

[23] *See* Options 3, Section 10.

[24] *See* NOM Options 2, Section 5(d).

[25] *See* NOM Options 2, Section 4.

[26] Options 3, Section 15(c) describes the Anti-Internalization and Quotation Adjustments Protections that are available today to NOM Market Makers.

[27] *See* Options 3, Section 7(a)(9).

Exchange believes utilizing ''Market Makers'' in addition to ''Nasdaq Options Market Maker'' and ''Options Market Maker'' will conform the use of that term throughout the Rulebook.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, rather, this proposal provides NOM Market Makers with the opportunity to continue to avail themselves of functionality that currently on BOX, NYSE Arca, and MIAX Emerald.[28]

The proposal does not impose a burden on inter-market competition, because Participants may choose to become market makers on a number of other options exchanges, which may have similar but not identical features. The Post-Only Quote Configuration functionality will continue to benefit downstream counterparties, both within and away from the Exchange, who may interact with NOM's non-displayed order book and thereby interact with order flow that is priced better than the NBBO.

The proposal does not impose a burden on intra-market competition. Today, all Participants may submit Post-Only Orders and receive similar treatment for their orders. Offering NOM Market Makers the ability to configure their quotes as Post-Only will allow all market participants on NOM to enter interest with a Post-Only designation.

The proposed risk protection allows NOM Market Makers the ability to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on NOM's order book upon entry, thereby protecting investors and the general public as NOM Market Makers transact a large number of orders on the Exchange and bring liquidity to the marketplace. NOM Market Makers are required to add liquidity on NOM and, in turn, are rewarded with lower pricing [29] and enhanced allocations.[30] Specifically, the risk protection would permit NOM Market Makers to add liquidity only and avoid removing non-displayed interest on the order book thereby maximizing the benefit of their quoting to bring liquidity to NOM by allowing NOM Market Makers to provide as much liquidity as possible. Unlike other market participants, NOM Market Makers have certain obligations on the market. NOM Market Makers are required to provide continuous two-sided quotes on a daily basis [31] and are subject to various obligations associated with providing liquidity on the market.[32] NOM Market Makers are the sole liquidity providers on the Exchange and, therefore, are offered certain quote risk protections noted within Options 3, Section 15 to allow them to manage their risk more effectively.[33] The proposed Post-Only Quote Configuration is another risk protection afforded to NOM Market Makers to assist them in managing their risk while continuing to comply with their obligations.

Options 3, Sections 1 and 7

The Exchange proposal to correct certain minor technical amendments within Options 1, Section 1, ''Definitions,'' and Options 3, Section 7, ''Types of Orders and Order and Quote Protocols'' does not impose an undue burden on competition as updating the citation within Options 3, Section 7(a)(9) which describes the Post-Only Order, amending the term ''Nasdaq Options Market Maker'' or ''Options Market Maker'' within Options 1, Section 1, ''Definitions,'' and replacing the term ''NOM Market Makers'' within Options 3, Section 7(e)(1)(D) which describes the ''Quote Using Orders'' or ''QUO'' quote protocol with ''Market Makers'' as proposed to be defined within Options 3, Section 1(a)(27) will bring greater clarity to these rules. The Exchange believes utilizing ''Market Makers'' in addition to ''Nasdaq Options Market Maker'' and ''Options Market Maker'' will conform the use of that term throughout the Rulebook.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [34] and subparagraph (f)(6) of Rule 19b–4 thereunder.[35]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2021–094 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–2021–094. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[28] *See* notes 10–12 above.

[29] *See* Options 7, Section 2.

[30] *See* Options 3, Section 10.

[31] *See* NOM Options 2, Section 5(d).

[32] *See* NOM Options 2, Section 4.

[33] Options 3, Section 15(c) describes the Anti-Internalization and Quotation Adjustments Protections that are available today to NOM Market Makers.

[34] 15 U.S.C. 78s(b)(3)(A)(iii).

[35] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2021–094 and should be submitted on or December 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–25992 Filed 11–29–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93668; File No. SR–ICEEU–2021–015]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments to the Counterparty Credit Risk Policy and Counterparty Credit Risk Procedures

November 24, 2021.

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 November 15, 2021, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed amendments is for ICE Clear Europe to adopt a new Counterparty Credit Risk Policy (the ''CC Risk Policy'') and a new Counterparty Credit Risk Procedures (the ''CC Risk Procedures'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Europe is proposing to adopt the CC Risk Policy that would consolidate the Clearing House's overall policies for monitoring counterparty credit risk. ICE Clear Europe is also proposing to adopt the CC Risk Procedures that would consolidate and provide further detail as to the application of the Clearinghouse's policies for monitoring counterparty credit risk, in accordance with the requirements of the ICE Clear Europe Rules. Certain components of the CC Risk Policy and the CC Risk Procedures would replace components of ICE Clear Europe's current Unsecured Credit Limits Procedures and Capital to Margin Policy (as applicable, explained further below), which would both be retired. References to the Unsecured Credit Limits Procedures in other ICE Clear Europe documents would be revised in due course to reference the CC Risk Policy or the CC Risk Procedures, as applicable. The adoption of the CC Risk Policy and CC Risk Procedures is intended to generally reflect and document on a consolidated basis the Clearing House's existing policies and practices relating to counterparty credit risk management, as well as provide certain updates to current Clearing House practices, which are not intended to be material. Further explanations are provided below.

I. Counterparty Credit Risk Policy

The CC Risk Policy would define Counterparty Credit Risk and set out the Clearing House's objectives of minimizing the risk of being materially undercollateralized as a result of a Clearing Member (''CM'') default or realizing a material loss due to a Financial Service Provider (''FSP'') default.

Under the policy, the Clearing House classifies prospective CM's according to risk and sets credit eligibility criteria for prospective CMs and FSPs in order to check financial stability. Prospective CMs and FSPs are assessed against such criteria during onboarding. Existing CMs and FSPs are reviewed against such criteria at least annually.

The CC Risk Policy would describe ICE Clear Europe's counterparty rating system, which calculates a credit score that represents a counterparty's credit quality, and together with the exposure is used to identify the combination of the likeliness of default and heightened risk in a counterparty's portfolio of risk with ICE Clear Europe. Credit scores would be calculated by the model or, for FSPs (as provided in the CC Risk Procedures), a combination of Minimum External Rating requirements and exposure limits. See Section II below for more information. Depending on the risk classification, Counterparties may be subject to additional monitoring and potentially mitigating actions by the Clearing House.

The CC Risk Policy also would describe ICE Clear Europe's counterparty risk monitoring processes, which are based on a combination of continuous monitoring and additional counterparty risk reviews, tailored to the relationships and obligations of each type of counterparty. The new policy (and related procedures) provide further detail as to the content and frequency of such reviews, as well as distinguish how such reviews would be performed with respect to high risk counterparties. Specifically, the amendments would provide that all counterparties are monitored continuously through counterparty rating system scores, the Clearing House watch list and exposure limits. The Clearing House also performs Counterparty Risk Reviews on higher risk counterparties. Triggers for reviews are (i) a counterparty being added to the watch list, and (ii) there being concerns about the stability of a counterparty. Periodically, lower risk counterparties are subject to Counterparty Risk Reviews, such that all counterparties are subject to a risk review at least once every five years. (As explained further in Section II below, the CC Risk Procedures would require the Clearing House to perform a Counterparty Risk Review on CMs more frequently, at least once every four years.) These aspects of the Policy are generally consistent with, and will replace, the Unsecured Credit Limits Procedures.

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.