

delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the operative delay would allow Users to have access to the Global OTC System during the operative delay period and would provide Users with options for connectivity to trading and execution services and the availability of products and services. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.

Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.²⁶

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)²⁷ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSE-2019-31 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-NYSE-2019-31. 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](http://www.sec.gov/rules/sro.shtml)). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2019-31 and should be submitted on or before June 25, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Eduardo A. Aleman,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85951; File No. SR-NASDAQ-2019-042]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Allow \$1 or Greater Strike Price Intervals for Options on QQQ and IWM

May 29, 2019.

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 May 17, 2019, The Nasdaq Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial"

proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 allow \$1 or greater strike price intervals for options on certain Exchange-Traded Fund ("ETF") Shares, as described below.

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

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

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

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

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's rules to allow \$1 or greater strike price intervals for options listed on the PowerShares QQQ Trust ("QQQ") and the iShares Russell 2000 Index Fund ("IWM"), consistent with recent changes proposed by Cboe Exchange, Inc. ("CBOE") and approved by the Commission.⁵

Currently, Chapter IV, Supplementary Material .01(c) to Section 6, allows for the interval between strike prices of series of options on SPY, IVV, and DIA to be \$1 or greater where the strike price is greater than \$200. QQQ and IWM options, however, currently trade on the Exchange with \$1 intervals up to a strike price of \$200 pursuant to Supplementary Material .01(b) to

²⁶ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁷ 15 U.S.C. 78s(b)(2)(B).

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ See Securities Exchange Act Release No. 85754 (April 30, 2019), 84 FR 19823 (May 6, 2019) (SR-CBOE-2019-015).

Section 6. Above \$200, these options classes trade with significantly wider \$5 strike price intervals. The Exchange now proposes to modify Supplementary Material .01(c) to Section 6 to allow \$1 strike price intervals where the strike price is above \$200 for QQQ and IWM options, in effect matching the strike setting regime for these products below \$200 and also for options on SPY, IVV, and DIA. The Exchange believes that the proposed rule change would make QQQ and IWM options easier for investors and traders to use, and more tailored to their investment needs.

QQQ and IWM are designed to provide investors different ways to efficiently gain exposure to the equity markets and execute risk management, hedging, asset allocation and income generation strategies. QQQ is a unit investment trust designed to closely track the price and performance of the Nasdaq-100 Index ("NDX"), which represents the largest and most active non-financial domestic and international issues listed on The Nasdaq Stock Market based on market capitalization. Likewise, IWM is an index ETF designed to closely track the price and performance of the Russell 2000 Index ("RUT"), which represents the small capitalization sector of the U.S. equity market. In general, QQQ and IWM options provide investors with the benefit of trading broader markets in a manageably sized contract.

The value of QQQ is designed to approximate 1/40 the value of the underlying NDX. For example, if the NDX price level is 1400, QQQ strike prices generally would be expected to be priced around \$35. The value of IWM is designed to approximate 1/10 the value of the underlying RUT. In the past year, NDX has climbed above a price level of 7500 and RUT climbed to a price level of approximately 1700 (both prior to the December 2018 market-wide decline). The prices for QQQ and IWM options have correspondingly increased within the same time period.⁶ As the value of the underlying ETF (and the index the ETF tracks) and resulting strike prices for each option appreciates, investor and member demands to list additional strike prices (\$1 increments) in QQQ and IWM options above \$200 continue to increase. QQQ is among the most actively traded ETFs on the market. It is widely quoted as an indicator of technology stock price and investor confidence in the technology and telecommunication market spaces, a significant indicator of overall economic

health. Similarly, IWM is among the most actively traded ETFs on the market and provides investors with an investment tool to gain exposure to small U.S. public companies. Industry-wide trade volume in QQQ more than doubled from 2017 to 2018. QQQ options and IWM options have grown to become two of the largest options contracts in terms of trading volume. Investors use these products to diversify their portfolios and benefit from market trends.

Accordingly, the Exchange believes that offering a wider base of QQQ and IWM options affords traders and investors important hedging and trading opportunities, particularly in the midst of current price trends. The Exchange believes that not having the proposed \$1 strike price intervals above \$200 in QQQ and IWM options significantly constricts investors' hedging and trading possibilities. The Exchange therefore believes that by having smaller strike intervals in QQQ and IWM, investors would have more efficient hedging and trading opportunities due to the lower \$1 intervals. The proposed \$1 intervals above the \$200 strike price will result in having at-the-money series based upon the underlying ETFs moving less than 1%. The Exchange believes that the proposed strike setting regime is in line with the slower movements of broad-based indices. Considering the fact that \$1 intervals already exist below the \$200 price point and that both QQQ and IWM have consistently inclined in price toward the \$200 level, the Exchange believes that continuing to maintain the current \$200 level (above which intervals increase 500% to \$5), may have a negative effect on investing, trading and hedging opportunities, and volume. The Exchange believes that the investing, trading, and hedging opportunities available with QQQ and IWM options far outweighs any potential negative impact of allowing QQQ and IWM options to trade in more finely tailored intervals above the \$200 price point.

The proposed strike setting regime would permit strikes to be set to more closely reflect the increasing values in the underlying indices, and allow investors and traders to roll open positions from a lower strike to a higher strike in conjunction with the price movements of the underlying ETFs. Under the current rule, where the next higher available series would be \$5 away above a \$200 strike price, the ability to roll such positions is effectively negated. Accordingly, to move a position from a \$200 strike to a \$205 strike under the current rule, an investor would need for the underlying

product to move 2.5%, and would not be able to execute a roll up until such a large movement occurred. As discussed above, NDX and RUT have experienced continued, steady growth. The Exchange believes that with the proposed rule change, the investor would be in a significantly safer position of being able to roll his/her open options position from a \$200 to a \$201 strike price, which is only a 0.5% move for the underlying. The Exchange believes that the proposed rule change will benefit investors by providing them the flexibility to more closely tailor their investment and hedging decisions using QQQ and IWM options.

By allowing series of QQQ and IWM options to be listed in \$1 intervals between strike prices over \$200, the proposal will moderately augment the potential total number of options series available on the Exchange. However, the Exchange believes that it and the Options Price Reporting Authority ("OPRA") have the necessary system capacity to handle any potential additional traffic associated with this rule change. The Exchange also believes that members will not have a capacity issue due to the proposed rule change. In addition, the Exchange represents that it does not believe this expansion will cause fragmentation of liquidity, but rather, believes that finer strike intervals will serve to increase liquidity available as well as price efficiency by providing more trading opportunities for all market participants.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the proposed rule change to Chapter IV, Supplementary Material .01(c) to Section 6 will allow investors to more easily and effectively use QQQ and IWM options. Moreover, the proposed rule change would allow investors to better trade and hedge positions in QQQ and IWM options where the strike price is greater than \$200, and ensure that investors in both options are not at a disadvantage simply because of the strike price.

The Exchange also believes the proposed rule change is consistent with

⁶ For example, by the end of August 2018, QQQ was trading at more than \$185 per share and IWM was trading at more than \$170 per share.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

Section 6(b)(1) of the Act,⁹ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The rule change proposal allows the Exchange to respond to customer demand to allow QQQ and IWM options to trade in \$1 intervals above a \$200 strike price. The Exchange does not believe that the proposed rule would create additional capacity issues or affect market functionality.

As noted above, QQQ and IWM options currently trade in wider \$5 intervals above a \$200 strike price, whereas the same products at or below a \$200 strike price trade in \$1 intervals. This creates a situation where contracts on the same options class effectively may not be able to execute certain strategies such as, for example, rolling to a higher strike price, simply because of the \$200 strike price, above which options intervals increase by 500%. This proposal remedies the situation by allowing QQQ and IWM options to trade in \$1 or greater intervals at all strike prices.

The Exchange believes that the proposed rule change will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. Moreover, the proposal is consistent with changes adopted by CBOE and approved by the Commission.¹⁰

With regard to the impact of this proposal on system capacity, the Exchange believes it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. As discussed above, the Exchange further believes that its members will not have a capacity issue as a result of this proposal.

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. To the contrary, the proposed rule change is a competitive response to a recent CBOE filing approved by the Commission.¹¹ The Exchange believes that the proposed rule change is essential to ensure fair competition between markets, and will result in additional investment options and opportunities to achieve the investment and trading

objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

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 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) of the Act¹² and subparagraph (f)(6) of Rule 19b-4 thereunder.¹³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁴ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of this requirement will ensure fair competition among the exchanges by allowing the Exchange to set the interval between strike prices of series of options on ETF shares of QQQ and IWM in a manner consistent with another exchange. Further, the Exchange states that because the proposed rule change is based on the rules of another exchange,¹⁶ it does not introduce any new or novel regulatory issues. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby

waives the operative delay and designates the proposed rule change operative upon filing.¹⁷

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 change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2019-042 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-2019-042. 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,

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b)(1).

¹⁰ See *supra* note 5.

¹¹ See *supra* note 5.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

¹⁶ See *supra* note 5.

Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2019-042 and should be submitted on or before June 25, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-11565 Filed 6-3-19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85959; File No. SR-NYSENAT-2019-13]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees and Rebates Related to Co-location Services

May 29, 2019.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the “Act”) ² and Rule 19b-4 thereunder,³ notice is hereby given that on May 21, 2019, NYSE National, Inc. (“NYSE National” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 its Schedule of Fees and Rebates (the “Price List”) related to co-location services to update the description of the access to trading and execution systems provided with the purchase of access to

the co-location local area networks. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

The Exchange proposes to amend the Price List related to co-location ⁴ services offered by the Exchange to update the description of the access to trading and execution services and connectivity to data provided to Users ⁵ with connections to the Liquidity Center Network (“LCN”) and internet protocol (“IP”) network, local area networks available in the data center.

To implement the changes, the Exchange proposes to amend paragraph one of General Note 4, which describes the access to trading and execution systems which a User receives when it purchases access to the LCN or IP network.⁶

The Exchange will announce the implementation date through a customer notice.

⁴ The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (“Commission”) on May 18, 2018. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR-NYSENAT-2018-07). The Exchange operates a data center in Mahwah, New Jersey (the “data center”) from which it provides co-location services to Users.

⁵ For purposes of the Exchange’s co-location services, a “User” means any market participant that requests to receive co-location services directly from the Exchange. See *id.* at note 9. As specified in the Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange’s affiliates the New York Stock Exchange (“NYSE”), NYSE American LLC (“NYSE American”), and NYSE Arca, Inc. (“NYSE Arca” and together with NYSE, NYSE American, and NYSE Chicago, Inc., the “Affiliate SROs”). See *id.* at note 11.

⁶ See *id.* at 26315–26316.

As set forth in the first paragraph of General Note 4, when a User purchases access to the LCN or IP network, it receives the ability to access the trading and execution systems of the Exchange and the SRO Affiliates (together, the “Exchange Systems”), provided the User has authorization from the Exchange or relevant Affiliate SRO.⁷ The Exchange proposes to revise such paragraph to reflect that a User that purchases access to the LCN or IP network also receives the ability to access the trading and execution systems of Global OTC (“Global OTC System”), subject to authorization by Global OTC.

In order to obtain access to the Global OTC System, the User would enter into an agreement with Global OTC, pursuant to which Global OTC would charge the User any applicable fees charged to its subscribers by Global OTC. Once the Exchange receives authorization from Global OTC, the Exchange would establish a connection between the User and the Global OTC System.

The Exchange provides Users access to the Global OTC System and the Exchange Systems (“Access”) as a convenience to Users. Use of Access is completely voluntary. The Exchange is not aware of any impediment to third parties offering Access. As alternatives to using the Access to the Global OTC System provided by the Exchange, a User may access such services through the Secure Financial Transaction Infrastructure (“SFTI”) network, a third party telecommunication network, third party wireless network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be a SFTI access center, a third-party access center, or both), another User, or a third party vendor.

Global OTC

Global OTC is an affiliate of the Exchange, which has an indirect interest in Global OTC because it is owned by the Exchange’s ultimate parent, Intercontinental Exchange, Inc.⁸

Unlike the NYSE Exchanges, Global OTC is not a national securities exchange registered with the Securities and Exchange Commission (“Commission”) under Section 6 of the

⁷ See *id.*

⁸ See *id.* at 26322. Global OTC is operated by Archipelago Trading Services, Inc., which is a broker-dealer subsidiary of NYSE Group, Inc. (“NYSE Group”). NYSE Group is also the parent company of the Exchange.

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.